

Chance to Survive

Minority Rights in Estonia and Latvia

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Chance to Survive: Minority Rights in Estonia and Latvia

The objective of the present book is to give the broadest possible description of the situations in Estonia and Latvia from the standpoint of the protection of minority rights and the prevention of discrimination. The authors present information on the realisation of the civil and political rights of minorities; the positions of minorities on the labour market and in the educational systems are examined in more detail, and several other aspects of the economic, cultural, and social rights situation are also explored.

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Foreword

Like most post-Soviet republics, Estonia and Latvia are countries with multicultural and ethnically diverse societies. In contrast to others in the post-Soviet space, however, they can at the same time be described as ‘multi-legal’. The legal framework of the existence of the predominantly Russian-speaking minorities, who make up 30%–40% of their populations, is a complicated mosaic. Some of the countries’ permanent residents who belong to the minorities have the status of citizens, while others are divided into a variety of categories. For example, Estonia’s current legislation treats all of the latter as ‘aliens’. This category of people includes citizens of the Russian Federation (as well as Belarus, Ukraine, etc.) and stateless former citizens of the USSR whom the Estonian authorities have euphemistically branded as ‘individuals with undefined citizenship’. Uniquely in international practice, Latvia has in turn introduced the term ‘a non-citizen of Latvia’ which is applied to Soviet-era residents of Latvia whom the local legislations recognise as legitimate residents but on whose civil and political rights they nevertheless impose serious restrictions.

Like the political systems of most post-Soviet republics – and of the majority of post-communist East and Central-European countries in general – those of Estonia and Latvia are based on the ethno-nationalist concept of the ‘nation state’ as a state primarily belonging to the dominant, most numerous, ‘historic’, ‘constituent’, ‘state building’, etc. nation.* In such a situation, there inevitably arise problems with the rights of individuals who do not belong to the dominant group and who risk being deprived of equal and non-discriminatory treatment.

The legal aspects of the situation in Estonia and Latvia are monitored on a more or less regular basis by a number of international organisations, but their mandates limit their scope for verifying compliance with the corresponding conventions and treaties. For a long time, the OSCE focused

* V. Dimitrijevic. The Fate of Non-members of Dominant Nations in Post-communist European Countries, Jean Monnet Chair Papers, no. 25, 1995. P. 13.

on the political situation and on the prevention of inter-ethnic conflicts in the Baltic region, and maintained permanent missions in Estonia and Latvia. The first OSCE High Commissioner on National Minorities, Max van der Stoep, used to pay considerable attention to the situation in the Baltic states, but unfortunately his successors were preoccupied with other regions and have tended to overlook the Baltics. As for the OSCE missions in the Baltic states, they were closed down in 2001, on the insistence of the national governments.

In the case of Estonia and Latvia, the conclusions and recommendations of international organisations have always been influenced by geopolitical considerations and by so-called European solidarity. For the most part, EU ministers, parliamentarians, and bureaucrats ignore the critical – and often very negative – assessments of the conditions in the Baltic states found in reports, papers, and books written by experts. Unreceptive to the recommendations of various international organisations, the Estonian and Latvian administrations would have readily embraced any suggestions made by Brussels whenever these helped accelerate their accession to the EU. The EU, however, extracted little from the opportunity. Now this resource has been exhausted.

There is yet another reason behind the EU’s indifference to the Baltic states, and perhaps it is the most profound of all. Until recently the EU had no body charged specifically with the mission of protecting human rights. Historically, *coal and steel* economic issues had a higher priority for the continuously expanding alliance. Reports issued by independent organisations such as the Open Society Institute (OSI) carried non-binding recommendations and had no serious influence on the Estonian and Latvian political elites. Only in 1997 did the EU establish the European Centre on Racism and Xenophobia, which became the EU Agency for Fundamental Rights in 2007. EU directives concerning unequal treatment and discrimination based, inter alia, on race, ethnic origin, and religion saw the light of day in 2000. Importantly, they can be of a binding character, and at present there is hope that positive changes are going to take place.

Pressure exerted by the international community, or at least its attention to the problems experienced by minorities, can also help improve the situation. It should be noted that understanding the inner mechanisms of the legislation and politics of the two countries, their similarities and

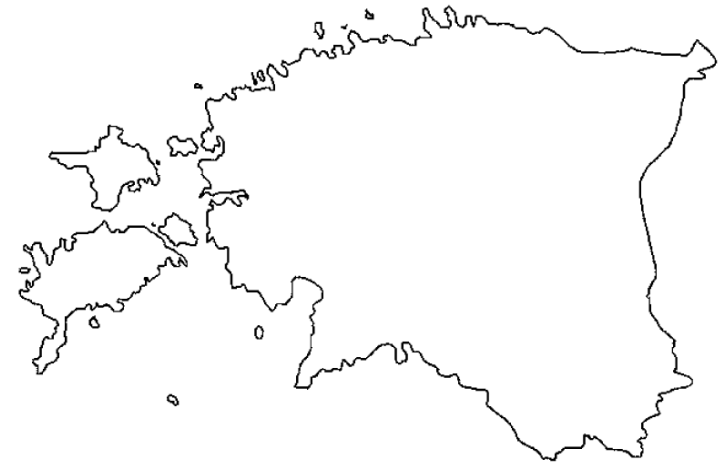
distinctions, is a challenge even to serious observers, and the techniques of indirect discrimination practised in Estonia and Latvia are at times hard to discern. For example, it takes an expert to explain the difference between the situations faced by a 'non-citizen of Latvia' and an 'individual with undefined citizenship' in Estonia, but the two statuses have quite different consequences, due to which there is a large number of Russian citizens in Estonia but relatively few in the Russian community in Latvia.

The objective of the present work is to give the broadest possible description of the situations in Estonia and Latvia from the standpoint of the protection of minority rights and the prevention of discrimination. It provides basic statistical data on the living conditions of the ethnically non-Estonian and non-Latvian populations, and surveys briefly the policies of Estonia and Latvia in the sphere of ethnic relations, migration, and the prevention of discrimination based on race, ethnic origin, and religion. The authors have deemed it necessary to present information on the realisation of the civil and political rights of minorities (special attention is paid to their participation in political and public activities, their access to the judicial system and to certain basic civil freedoms). The positions of minorities on the labour market and in the educational systems are examined in more detail, and several other aspects of the economic, cultural, and social rights situation are also explored.

In contrast to international organisations issuing narrowly specialised reports, the authors have not confined themselves to analysing the compliance with any particular convention in Estonia and Latvia. In some cases the legislative policies of both countries and their consequences are illustrated with specific examples from the practice of organisations advocating human rights. The authors largely leave it to the reader to draw conclusions from the material, but they do have the courage to formulate certain remarks and recommendations they regard as particularly important. It is assumed that readers interested in a comprehensive account of the politics in Estonia and Latvia can also review official reports of the national administrations.

This work reflects the situation as of the early 2008 and supplies more recent data as far as possible.

ESTONIA



PART I.

GENERAL ASPECTS OF MINORITY POLICIES

1.1. Basic Statistics

1.1.1. Ethnic Composition of the Population

Estonia became a part of the Russian Empire in the early 18th century. It gained independence following the October 1917 Revolution in Russia. Russia's Bolshevik government recognised the independence of Estonia in 1920. In 1940 Estonia was incorporated into the USSR. Estonian independence was restored in 1991.

Minority Population Dynamics

According to the 1897 census conducted across the Russian Empire, ethnic Estonians made up 90.6% of the population of the region.¹ The largest minorities were Russians (4% or 4.7% including the population of Narva), and Baltic Germans (3.5%). The Russian population was predominantly urban, comprising 14% of the urban population of the region (43.5% in Narva). Russian peasants resided only in the districts near Narva and the Lake Peipus. The largest minorities were overrepresented among white-collar workers (Russians – 19%, Germans – 24%).²

According to the 1934 census, ethnic Estonians made up 88.1% of the country's population. Ethnic Russians were the largest minority group (8.2%) and two fifths of them inhabited territories currently belonging to the Russian Federation.³ The two other largest minorities were Germans and Swedes who left Estonia in large numbers shortly before and during World War II.

Generally the war resulted in a major population decrease (some of the reasons being repressions and mass emigration). A massive influx of ethnic non-Estonians into the republic began in the 1950s as the country industrialised.

Table 1.

Demographic trends in Estonia in the 20th century, census data, % *

Census	Ethnic Estonians	Other ethnic groups	
		Total	Russians
1922	87.62	12.38	8.23
1934	88.11	11.75	8.23
1959	74.59	25.41	20.07
1970	68.22	31.78	24.68
1979	64.72	35.27	27.91
1989	61.53	38.47	30.33
2000	67.90	32.10	25.63

Source: Statistics Estonia.⁴

Note: * – data corresponds to the territory of Estonia at the time of the census

According to the 1989 census, the largest non-Estonian ethnic groups were Russians (30.3%), Ukrainians (3.1%), Belarusians (3.1%), and Finns (1.1%). Ethnic non-Estonians accounted for 38.5% of the republic's population in 1989.⁵ The 2000 census showed that the minority part of the republic's population had decreased to 32.1%. In 2000 25.6% of the population were ethnic Russians, 2.1% Ukrainians, 1.3% Belarusians, and 0.9% Finns.⁶ The trend is normally attributed to migration and higher mortality levels among minorities.

According to the data of the official statistics, as of January 1, 2008, the population of Estonia was 1,340,935, of which 920,885 of them are ethnic Estonians (68.7%), 343,568 Russians (25.6%), 28,003 Ukrainians (2.1%), 15,925 Belarusians (1.2%), 10,890 Finns (0.8%), 2,473 Tatars (0.2%), 2,211 Latvians (0.2%), 2,056 Poles (0.2%), 1,870 Jews (0.1%), 2,070 Lithuanians (0.2%), 1,910 Germans (0.1%), and 9,074 others (0.6%).⁷ (Following Soviet practice, Jews are regarded as an ethnic group in Estonia although no ethnicity is displayed on passports or ID cards.)

Languages

The 2000 census showed that Estonian was identified as the native (first) language by 67% of the population and Russian by 30% (62% and 35% in 1989). Some 98% of ethnic Estonians and the same percentage of ethnic Russians said that the language of their ethnic group ('national language')

was also their native language (99% in 1989). Among other ethnic groups numbering over 500 people, only Roma were found to have an excellent command of their ‘national’ language (97%). The lowest percentage of people fluent in their ‘national’ language (in this case, Hebrew) was found among Jews (6%).⁸

The term ‘Russian-speakers’, however indefinite, largely reflects the actual situation among non-Russian minorities in Estonia. Finns are the only large ethnic minority in Estonia in which a relatively high percentage of individuals belonging to it regard Estonian as their native language. Russian is spoken as a native language in Estonia by 57% of ethnic Ukrainians, 70% of Belarusians, and 30% of Finns. Generally, in most large non-Estonian ethnic groups in the republic, the native language is either the respective ‘national’ language or Russian. Compared to 1989 the percentage of people for whom their ‘national’ language is also the native one has remained roughly the same.⁹

The 2008 Integration Monitoring showed that 15% of ethnic non-Estonians believed they had full command of Estonian. Active knowledge of Estonian was reported by 17% of respondents. Passive knowledge of Estonian (described by responses such as “I understand it and speak it a little”, and “I understand it a little but can’t speak it”) was reported by 24% and 25% of respondents. 19% of respondents said they did not know Estonian at all.¹⁰

1.1.2. The Problem of Statelessness

On November 6, 1991 the Supreme Soviet of Estonia decided that citizenship would be extended only to the citizens of the pre-World War II Estonia and their descendants.¹¹ The final resolution followed in 1992 with the re-enactment of the 1938 Citizenship Act. The version of the Citizenship Act which was in effect in the period 1992 – 1995 was based on the 1938 text.

Thus, unlike other post-Soviet republics, Estonia (and Latvia) rejected the so-called zero-option which implied that all (or almost all) permanent residents were entitled to citizenship.

According to official estimates, in 1992 32% of Estonia’s population were ‘individuals with undefined citizenship’,¹² which is a euphemism officially used to describe currently stateless former citizens of the USSR.

According to the 2000 census, the population of Estonia comprised

four major groups: Estonian citizens (around 80%), Russian citizens (6.3%), citizens of other countries (0.7%), and individuals with ‘undefined citizenship’ (12.4%).¹³ In the 1990s, large numbers of ethnic non-Estonians inhabiting Estonia chose to acquire Russian citizenship and thus avoided being stateless.

By 2006, the percentage of stateless people in Estonia fell to 8%.¹⁴ The estimate for 2008 was roughly the same. The decrease in the percentage of stateless people in the population of Estonia was due to migration, naturalisation in Estonia, natural causes, and adoption of the Russian citizenship.

The status of people with ‘undefined citizenship’ is the same as the status of the citizens of Russia and other countries. Under certain conditions, access to Estonian citizenship is somewhat simplified for stateless children under 15 years of age (see Section 1.2.4.a below).

1.1.3. Major Religious Groups

According to the 2000 census, minorities in Estonia were generally more religious than the ethnic majority (Table 2). While only 26% of ethnic Estonians belonged to any confession, predominantly Lutheran, 42% of Russians in the country were religious, mostly Christian Orthodox.

On the whole, 14.8% of Estonia’s population aged 15 and over were Lutheran and 13.9% Orthodox. Altogether these two groups comprise the majority of religious people in Estonia. The Muslim community is very small.¹⁵

Table 2.
Attitude to religion among the population aged 15 and up according to the 2000 census, %

Attitude to Religion	Total	Ethnic Estonians	Ethnic Russians	Others
Follower of a particular faith	31.8	26.3	42.0	46.6
Had no religious affiliation	37.0	41.3	28.8	26.9
Atheist	6.7	5.9	8.5	6.6
Could not define the affiliation	15.8	16.6	14.5	13.5
Refused to reply	8.7	9.9	6.2	6.4
Total	100.0	100.0	100.0	100.0

Source: *Statistics Estonia*¹⁶

1.1.4. Refugees

Estonia has had a well-developed legislation on refugees since 1997. 10 out of 133 applicants had been granted refugee status by October 2008. Most of the applicants were from Iraq, Russia, and Turkey. Refugee status was granted for the first time in 2000.¹⁷

Table 3.

Decisions to grant refugee status or subsidiary protection¹⁸

	Refugee status	Subsidiary protection
2000	4	4
2001	0	4
2002	0	1
2003	0	0
2004	0	0
2005	0	1
2006	0	0
2007	2	2
2008	4	0
Total	10	12

Source: Citizenship and Migration Board¹⁹

1.2. Basic Ethnic Policies

1.2.1. Recognition of National Minorities

In Estonia only the 1993 National Minorities Cultural Autonomy Act deals specifically with the rights of minorities. According to this law, only citizens of Estonia are regarded as individuals belonging to national minorities. In 1996, a declaration containing the same statement accompanied the ratification of the Framework Convention for the Protection of National Minorities. Currently the definitions of a national minority in the Cultural Autonomy Act (Article 1) and the Framework Convention ratification act are identical – to qualify, individuals must:

- be Estonian citizens;
- reside in Estonia;

- have long-term, stable, and continuing ties with Estonia;
- be different from Estonians ethnically, culturally, religiously, or linguistically;
- wish to jointly preserve their cultural traditions, religion, and language serving as the basis of their common identity.

In mid-1990s Mart Nutt, an ideologist of Estonian ethnic policies, believed that this definition allowed Estonia to regard Russians who historically resided in the proximity of the Lake Peipus as its only national minority.²⁰ Nevertheless the Cultural Autonomy Act explicitly mentions (ethnic) Russians, Germans, Swedes, and Jews as minorities. A cultural autonomy can be founded by any other group as well, if it meets the above-mentioned criteria and includes at least 3,000 Estonian citizens (Article 2(2)). So far the right to cultural autonomy has been used by Swedes and Ingrian Finns. It is clear from official documents that the authorities believe that Latvians can meet all the criteria and that therefore they could form a cultural autonomy if they wanted to.²¹ A number of experts hold that creating a cultural autonomy brings few advantages.²²

The criterion involving long-term ties with Estonia was obviously meant to exclude those minorities who entered the country in large numbers during the Soviet era (for example, Ukrainians). The criterion is fulfilled in the cases of Russians who historically resided not only in the rural areas around the Lake Peipus and near the Russian border, but also in Estonia's largest cities (especially in Tallinn, Narva, and Tartu).²³ Since intermarriages between 'historical' Russians and the Russians who came to Estonia in the Soviet era were widespread, any distinctions within the group would be hard to discern.

In its opinion on Estonia of September 14, 2001 the Advisory Committee of the Framework Convention for the Protection of National Minorities said it would regard both citizens and non-citizens as national minorities in Estonia. Moreover, the Committee praised the Estonian administration for taking an inclusive approach, and for not attempting to limit the rights of minority individuals who were not Estonian citizens.²⁴ Probably realising that it would be impractical to insist on defining minorities restrictively in the dialogue with the Council of Europe, the Estonian government admitted in its second

report on compliance with the Framework Convention that the citizenship criterion in the definition of a national minority currently had a ‘rather political-historical meaning’.²⁵

1.2.2. Official Integration Policy

Estonia adopted its first brief integration programme in 1999. It was followed by a more detailed programme, Integration in Estonian Society 2000 – 2007.²⁶ The document (Section 3.2) characterised the integration process as follows: “[O]n the one hand the social harmonisation of society on the basis of knowledge of the Estonian language and the possession of Estonian citizenship, and on the other hand the enabling of the maintenance of ethnic differences on the basis of the recognition of the cultural rights of ethnic minorities. The harmonisation of society also means the integration of both Estonians and non-Estonians around a unifying common core”. The programme proposed the following directions of integration:

- Linguistic-communicative integration: the creation of a common sphere of information and the Estonian language environment with the preservation of cultural diversity;
- Legal-political integration understood as the creation of a population loyal to the Estonian state, and the reduction of the number of residents without Estonian citizenship;
- Socio-economic integration understood as the achievement of greater competitiveness and social mobility regardless of ethnicity and native language.

The funding of various parts of the integration programme reached hundreds of millions of Estonian kroons and largely came from Western donors. Priority was given to knowledge of the Estonian language and to the acquisition of Estonian citizenship. As a result, most of the funds available for the implementation of the integration programme were spent on helping those whose native language was other than Estonian to study it.²⁷

The Government’s Regulation no. 172 of April 10, 2008 approved the new Estonian Integration Strategy 2008 – 2013. Its key principles are²⁸:

- adhering to fundamental European values;

- Estonian as the common language of communication in the public sector;
- strengthening state identity (“The objective of integration is to strengthen the common state identity of Estonia, developing common understanding of the state among permanent residents of Estonia based on the constitutional values of Estonia as a democratic state under the rule of law, valuing Estonian citizenship and appreciating the contribution of every person to the development of the society, at the same time accepting cultural differences”);²⁹
- involving all residents in developing society;
- equal opportunities;
- avoiding ethnicity-based separation;
- integration as a process originating at the individual level and involving the whole of society.

The financial support for the planned activities comes from the budgets of Estonian ministries and from the EU, particularly from the European Social Fund and the European Fund for the Integration of Third-country Nationals.³⁰ It is planned to spend annually 160 – 174 million Estonian kroons (10 – 11 million euros) in the above framework.³¹

The objective of the programme is to create a situation by 2013 such that, compared to 2007:³²

- The level of command of Estonian among the people whose mother tongue is not Estonian has improved on all levels;
- Contacts and communication between people with different mother tongues have increased and differences in participation in civil society organisations and the public sphere between Estonian and Russian speaking population have decreased;
- The percentage of people with undefined citizenship among the residents of Estonia has been consistently decreasing;
- The majority of Estonian residents trust people of other ethnic groups living in Estonia and they trust the Estonian state;
- The majority of the people whose mother tongue is not Estonian regularly receive information from Estonian media sources and trust them;

- Differences in employment and income levels between employees of different ethnic groups have decreased.

1.2.3. Language Policy

General Aspects

The preamble of the Constitution says that “[w]ith unwavering faith and a steadfast will to strengthen and develop the state, [...] which shall guarantee the preservation of the Estonian nation, language and culture through the ages, the people of Estonia [...] by a referendum held on 28 June 1992, adopted the following Constitution”. (The reference to the Estonian language was actually inserted into the preamble much later – only in 2007).

The preamble had been invoked by courts to resolve specific language-related legal disputes. Examining for the second time the constitutional legality of the requirement that members of the municipal councils must know Estonian, in 1998 the Supreme Court’s Constitutional Review Chamber ruled that “[t]he conformity of language qualifications with the Constitution proceeds from the preamble of the Constitution, pursuant to which one of the aims of the Republic of Estonia is to guarantee the preservation of the Estonian nation and culture throughout the ages. As the Estonian language is an essential component of the Estonian nation and culture, without which the preservation of the Estonian nation and culture is not possible, the enacting of electoral qualifications guaranteeing the use of Estonian by the Local Government Council Election Act is constitutionally justified”³³.

In spite of this judgment, the language requirement was nevertheless abolished. But in 2006, the Estonian parliament initiated an amendment of the Constitution to add a reference to the Estonian language to its preamble. The one-word amendment became effective in July 2007 (in April it was approved by the second parliament in a row). The explanatory note accompanying the draft legislation cited the Supreme Court’s judgment, quoted above, which expressed a general support for the language qualifications. It also said that “protection and

promotion of the beautiful Estonian language required more reliable symbolic and legal guarantees, and the ascription to the language by the Constitution of a particular priority would raise the prestige of learning Estonian and using it in daily life among Estonia’s residents who are not native speakers of Estonian”³⁴.

The Constitution also mentions the special linguistic rights of minorities: the right to preserve ethnic identity (Article 49), the right to establish cultural autonomies (Article 50), the right of national minorities’ educational institutions to choose the language of instruction (Article 37), the right to receive responses in minority languages from municipal and state authorities in localities where at least 50% of permanent residents belong to minorities (Article 51), and the right to use a second language in official transactions in localities where Estonian is not the native language of over half the residents (Article 52).

The issue of the cultural autonomy of a national minority (Article 50) was discussed above. The constitutional right to choose the language of instruction (Article 37) is probably supposed to be exercised by educational institutions created by cultural autonomies. The current Constitution (in contrast to the Constitution of 1920 with its Article 12) does not grant minorities the right to instruction in their native languages.

As for the use of the minority languages in official contacts, Article 52 of the Constitution refers to ‘the procedure provided by law’. The Language Act requires that local self-government (municipal) institutions ask the central government to grant the corresponding permissions (Article 11). No permits have ever been issued, however, in response to the requests submitted by several municipalities – the predominantly Russian-speaking Maardu and Narva, for example. It nevertheless makes sense to check how the above norm is interpreted in laws. A local self-government council can ask to allow a second language, but the corresponding permit would remain valid only until the expiration of the term of this council. No limits are imposed, meanwhile, on how long the central government can keep the request under consideration. Where the central government issues the permit, the local government and the council may decide to translate part or all of their sessions into the language of the national minority (and not vice-versa). No permit is

necessary to have minutes of self-government council sessions written in two languages in parallel (Local Government Organisation Act, Articles 23(7) and 41(3)-(4)). No other relevant norms can be found in the Estonian legislation.

According to a special provision of the Language Act based on Article 51 of the Constitution, in local self-governments in areas where half or more residents belong to a national minority every individual has the right to receive responses from municipal and local state institutions not only in Estonian but also in the corresponding minority language (Article 10). The rule is often ignored by public officials in areas with predominantly Russian-speaking populations. Furthermore, it does not apply, *inter alia*, to court bailiffs who are not regarded as public officials.

Though in Estonia a detailed definition of ‘a national minority’ can be found only in the National Minorities Cultural Autonomy Act, Estonian courts are not guided by it in the sphere of language regulation (thus they *do not* regard the national minority status as limited to citizens in the field of regulation of the Language Act).³⁵ However, the Supreme Court ruled that the right to receive responses from authorities in Russian or other minority languages belongs to individuals and not to ordinary legal entities.³⁶

Article 1(1) of the Language Act replicates the Constitution’s assertion (Article 6) that Estonian is the state language of Estonia. According to Article 4(1), every individual has the right to access the public administration and to communicate in Estonian in state agencies, local governments, bureaus of notaries, bailiffs and sworn translators, cultural autonomy bodies and institutions, companies, non-profit associations and foundations. A variety of acts regulating the use of Estonian in the official and public spheres reinforces this rule and provides for control over its implementation.

As mentioned above, integration largely relies on the official language as the instrument of promoting cohesion in the society. Estonian is the main (and in many cases the only) language of official communication and state-supported higher education. Nevertheless the Estonian language has not taken a sufficiently big role in daily inter-ethnic communication. Nevertheless the situation with the command of Estonian is improving. According to the 1989 census, only 15% of ethnic Russians in Estonia

spoke Estonian.³⁷ In 2000, the figure rose to 40%. A good command of Estonian is more widespread among younger people belonging to minorities (59% of the people aged 15 – 19).³⁸ Recent polls showed that proficiency in Estonian is continuing to rise, especially among younger people (see also Table J in Annex to Section 3.2).

Despite these positive changes, it appears that Russian-speakers have already used up most of the private resources they could allocate to the task of mastering Estonian, and in the future the progress in spreading proficiency in the language is going to be limited. Under the circumstances, the integration of Estonian society solely on the basis of the Estonian language is hardly possible. Moreover, even having no official status, Russian can compete with other languages in the republic. In reality, Russian is the predominant language of communication in certain regions of the country.

Table 4.

The ethnic composition and the native languages of the populations of Tallinn, Maardu, and the largest cities of the Ida-Viru county according to the 2000 national census, %

City	Ethnic non-Estonians	Russian as the native language	Estonian as the native language	All residents fluent in Estonian
Tallinn	46	43	52	74
Maardu	80	75	18	46
Narva	95	93	3	17
Jõhvi	67	63	31	56
Kohtla-Järve	82	80	15	39
Sillamäe	96	94	2	15

*Source: Statistics Estonia*³⁹

Place Names in Minority Languages

In 2003, Estonia passed a new Place Names Act which affords a more liberal approach to names in languages other than Estonian. Though the general rule is that place (geographical) names must be in Estonian, historically and culturally motivated exceptions are allowed.

If a local self-government chooses a non-Estonian place name, its decision must be confirmed by the Minister of Regional Affairs. The Minister makes the decision taking into consideration advice from the Place Names Council, and what language was spoken by the majority of the local population by September 27, 1939 when Soviet military bases were deployed in the country. If by that date the majority of the population in the area spoke Russian for example, the Russian place name can be chosen without such confirmation.

The law also allows local self-governments to change official names, but the procedure requires the agreement of the Minister of Regional Affairs and the Place Names Council. For example, a place can reclaim its original Estonian name. In addition to other reasons of purely technical character, a place name can be legitimised simply because it is used in practice more often than the official one. In this case the new name must meet the Estonian language and other requirements listed in the law (Article 7).

It should be noted that due to reasons rooted in Estonian history, many of the official geographic names in the country have changed more than once. Before the 20th century the official place names were in many cases German. The official place names were radically Estonianised during the first period of independence, and the process affected a large number of Russian villages and townships in the region bordering Russia and in the proximity of the Lake Peipus. In the Soviet era, the possibility of reverting to the original Russian names was not considered.

Though the Place Names Act does not prohibit reverting to previous names, in practice this would be extremely hard to realise, especially in the context of the deliberately broad interpretation of the act's principles. In the second report on the compliance with the Framework Convention for the Protection of National Minorities, the government pointed to yet another option listed in the law: a place that has once been renamed can get a parallel name. The report also says that the historically Russian districts in the Lake Peipus area were informed about this option.⁴⁰ According to the act, the use of a parallel name is meant to preserve the place's 'foreign name' in case it already has one in Estonian (or vice-versa). The corresponding decisions can be made at the local self-government level but they require the agreement of

the Minister of Regional Affairs who must seek the advice of the Place Names Council (Article 11). Several Swedish villages in the western part of Estonia have been given parallel names in this way.⁴¹

The 2005 initiative of the Kallaste city council to adopt the parallel name Krasnye Gory for the place yielded no result.⁴² The settlement with this name was founded by Russian old-believers who moved to Estonia from Russia in the early 18th century. At that time, maps showed both the Russian (Krasnye Gory), German (Krasnogor) and the Estonian (Kallaste) names of the place. The Russian name was used officially in the late 19th century. In the 1920s, the village became a township and was given an Estonian official name. In 1938, Kallaste was raised to the status of a city. However the Place Names Act prohibits parallel names for settlements whose borders are identical to those of administrative units (Article 11(2)) which is the case with most cities including Kallaste. In other words, the option of parallel names is open only to villages, settlements, and district towns which are not administrative units in Estonia.

1.2.4. Citizenship Policy

a). General Aspects

The naturalisation requirements are an indispensable part of Estonian ethnic policies. Since 1992, Estonia has had two citizenship Acts which – as a number of Estonian experts believed – reflected a compromise in the pursuit of two objectives: “to assure the survival of the Estonian nation by limiting citizenship to those who understood the country’s language and culture”, and “to integrate those who had settled in Estonia under the Soviet rule and thus to ensure a stable and loyal population.”⁴³

Most of the criticism of this approach concerned the language requirements linked to naturalisation. In the case of the 1992 Act – the restored 1938 Act – an important role was played by the Supreme Soviet’s decision on its application.⁴⁴ The Act allowed a simplified naturalisation procedure (involving no language requirements) for stateless individuals who had lived in Estonia for over a decade. However, the Supreme Soviet decided that the earliest starting point for the ten-year residence term had to be March 30, 1990, rendering the option practically useless.

The linguistic requirements for naturalisation were established by a separate Act which entered into force in 1993. This Act included provisions stipulating what kind of language proficiency has to be demonstrated by applicants to obtain citizenship.⁴⁵ It thus became possible for most ethnic non-Estonians to gain Estonian citizenship by naturalisation. The pre-war law had given ethnic Estonians a privilege: they did not have to take the language test.⁴⁶ In 2006 the percentage of ethnic Estonians who obtained Estonian citizenship with the use of this simplified procedure was 18% (25,293) of all naturalised people.⁴⁷

Until 1995, the content of the naturalisation language test was defined by a government regulation based on the Act on the Estonian Language Requirements for Citizenship Applicants. The corresponding procedure clearly made it possible for the examiners to treat applicants arbitrarily. Most of the questions arose in connection with the topics for conversation during the oral examination, which were country-specific in character (Estonia's major cities, lakes, rivers, and islands, its main historical events and figures, Estonian artists, etc.).

In 1995, the parliament passed a new Citizenship Act which broadened the range of naturalisation requirements to include a Constitution and Citizenship Act Test (Article 6). The new Act allowed no ethnically-based privileges. The rate of citizenship acquisition dropped sharply when, starting in 1996, the naturalisation process was switched completely to the new set of requirements (Table 5).

Table 5.
The numbers of individuals naturalised in Estonia annually, 1992 – 2008

Year	Naturalised	Year	Naturalised
1992	5,421	2000	3,425
1993	20,370	2001	3,090
1994	22,474	2002	4,091
1995	16,674	2003	3,706
1996	22,773	2004	6,523
1997	8,124	2005	7,072
1998	9,969	2006	4,753
1999	4,534	2007	4,228
		2008	2,124

Source: *Citizenship and Migration Board*⁴⁸

It is widely believed in Estonia that from the start the naturalisation requirements⁴⁹ introduced on the basis of the 1995 Act were more difficult to fulfil than the previous ones. Both the test's written part (an essay) and the oral part (conversations with no pre-defined themes) became more difficult. A 1996 study performed by the International Organisation for Migration showed that only around 30% of Russian citizens and 7% of stateless people in Estonia were not willing to acquire the country's citizenship.⁵⁰ Rudolf Bindig, who wrote a 1995 report on Estonia's compliance with human rights requirements, submitted to the Parliamentary Assembly of the Council of Europe, opined that contrary to the objective of promoting integration, the 1995 Act in fact tightened the language proficiency requirements. He said that if Estonia made gaining its citizenship extremely difficult for a large fraction of its population, and relied heavily on the system of residence permits, it would risk alienating the people who are in fact integrated and loyal to state and society and creating exactly the situation the Estonian administration sought to avoid, namely that of having a 'fifth column' of discontented Russian citizens and stateless people.⁵¹

The situation regarding Estonian citizenship remained tense in the late 1990s: Political scientist Klara Hallik argued that the naturalisation model chosen by Estonia implied the existence of a state-funded language instruction programme which however was absent. She has written that the unannounced objective was to use the language requirements as a barrier to prevent an increase in the number of citizens. She also concluded that the situation could not be final considering that most of the non-citizens in Estonia de facto had ties with it.⁵²

Since 2000, the language tests for employees (special tests must be taken by all public and many private sector employees) were the same as those used in the citizenship test.⁵³ The tests address listening and reading comprehension, and the ability to speak and write in the language. Since the language test certificate of any level could be used in the naturalisation process, the minimal naturalisation requirements were somewhat liberalised as a result.

The second naturalisation test examines knowledge of the Estonian Constitution and the Citizenship Act (Article 9(1) of the 1995 Citizenship Act). The procedure of this test and the list of questions

have changed a number of times. The current rules were set on January 14, 2002.⁵⁴ New rules are expected from March, 2009.⁵⁵

In practice, it is problems with the term of residence requirement that confront foreigners who had to work for a long time outside Estonia (sailors, for example). The Supreme Court did not deem it possible to count the time they spent working abroad as a part of the period necessary to gain citizenship.⁵⁶ The Supreme Court indicated clearly that naturalisation should be regarded as a privilege, not as a fundamental right.⁵⁷

Since 1999, a liberalised procedure of citizenship acquisition is open to children under 15 if they and both their parents are stateless. The corresponding amendments to the Citizenship Act were passed to accommodate the West's demands.⁵⁸ The legal foundation for the international demands was provided by Article 7(1) of the UN Convention on the Rights of the Child, according to which a child must be registered and given citizenship immediately at birth. Up to ten people annually can get citizenship for special services. They are exempt from the residence requirement, language proficiency, knowledge of the Constitution and the Citizenship Act requirements (Article 10 of the Citizenship Act). No requirements other than age and residence period are set for adults with restricted legal capacity (Article 35(1)). After a long period of hesitation, procedures were also relaxed for certain groups of people with disabilities (the persons who are unable to comply with naturalisation conditions for health reasons are now exempted from them; those who, for health reasons, are unable to fully comply with the requirements shall pass the examination in such manner as his or her state of health allows) (Article 35(2)-(3)). Any person who has completed basic, secondary or higher education in the Estonian language shall not be required to complete the language examination (Article 8(5)). Individuals born before January 1, 1930 do not have to take its written part but do have to take a written test in the Constitution and the Citizenship Act (Article 34).

Given the rather low naturalisation rate since the early 2000s, the Estonian administration took measures aimed at stimulating the process. The cost of Estonian language training can now be fully reimbursed (within certain limits) since January 1, 2004 (Article 8-1 of

the Citizenship Act⁵⁹). A possibility of a partial reimbursement existed previously in the framework of several projects implemented as a part of the 2000 – 2007 Integration Programme.

Political scientist Leif Kalev has written that historically the tradition of citizenship in Estonia was linked to the concept of a 'cultural nation': "Long isolation of the country from the modern citizenship institution, limited practices in the respect of treating legal immigrants and parochial elements in habits also exert influence on attitudes and policies. After restoring independence the Baltic nations continued both legislative and philosophical citizenship traditions of pre-war era and generally are continuously being modelled by their naturalisation laws as 'single-community' nation-states".⁶⁰ Nevertheless, Kalev argues that modern legal requirements for naturalisation have always been relatively open. There are no impenetrable barriers. The citizenship criterion for aliens is not depend on ethnicity but based on individual accomplishments in such a way that it would be possible for any individual to fulfil them.⁶¹

The majority of non-Estonians appear to disagree with the claim that the naturalisation process in Estonia is open and easily accessible. According to the 2005 Integration Monitoring, while 60% of ethnic Estonians held that the country's citizenship policy was "normal and in accordance with international standards" 70% of ethnic non-Estonians considered it "too strict" and believed that it violated "the human rights of non-Estonians".⁶² At the same time, 72% of the stateless residents of Estonia and 35% of its residents who were Russian citizens expressed in various forms the wish to get Estonian citizenship during the 2006 Prospects for Non-Estonians poll (a representative sample of 980 people). However only 19% of the stateless people and 9% of Russian citizens were convinced that they would be able to pass the corresponding Estonian language test.⁶³

In 2006, the UN Committee on the Elimination of Racial Discrimination recommended that Estonia take further measures to speed up the naturalisation process and to simplify access to it. In particular it advised organising free high-quality classes for all individuals applying for citizenship and stepping up awareness campaigns to familiarise people with the naturalisation procedure

and its benefits. The Committee repeatedly suggested that Estonia should ratify the *Convention on the Reduction of Statelessness* and the *Convention Relating to the Status of Stateless Persons*.⁶⁴

b). Ban on Naturalisation

Certain categories of non-citizens (including stateless residents) are denied the right to naturalisation in Estonia. For example, according to Article 21(1) of the Citizenship Act, Estonian citizenship cannot be granted to an individual:

- who has committed a criminal offence for which a punishment of imprisonment of more than one year was imposed, and whose criminal record has not expired, or who has been repeatedly punished according to the criminal procedure for intentionally committed criminal offences;
- who has been employed or is currently employed by the intelligence or security service of a foreign state;
- has served as a professional member of the armed forces of a foreign state, or who has been assigned to the reserve forces thereof, or has retired therefrom; and nor shall Estonian citizenship be granted to, or resumed by, his or her spouse who entered Estonia due to a member of the armed forces being sent into service, the reserve or into retirement.

As an exception, Estonian citizenship may be granted to, or resumed by, a person who has been repeatedly punished according to the criminal procedure for intentionally committed criminal offences, and whose criminal record has expired, “taking into consideration the circumstances relating to the commission of a criminal offence and the personality of the offender” (Article 21(1-1)).

In the majority of cases, this ban on naturalisation applies to former Soviet security service agents, military servicemen, and their spouses.

A former military serviceman can get citizenship only if he or she has been married for at least five years to an individual who obtained Estonian citizenship at birth (Article 21(2)).

Discrimination based on the above articles was unsuccessfully contested in the courts. Former Soviet military serviceman Vjatšeslav Borzov, a stateless resident of Estonia married to a naturalised Estonian

citizen, filed a complaint with the UN Human Rights Committee. He wrote that he had been discriminated against on the basis of his social status, which is against Article 26 of the International Covenant on Civil and Political Rights, but the Committee did not agree with his claim.⁶⁵

The law allows no exception for former secret service staff members. In 2008, the Supreme Court found no disagreement between the Citizenship Act and the Constitution in the case of a woman who had worked in the late 1970s for slightly over a year for the KGB as a secretary. She claimed that the ban on naturalisation led to discrimination against former technical staff.⁶⁶

The Citizenship Act explicitly demands that a naturalised citizen be loyal to Estonia (Article 6). In 2003, a young man was denied Estonian citizenship following an intervention by the Security Police. Statements had been published on the applicant’s website which were regarded by the administration as insulting to the Republic of Estonia.⁶⁷

According to the Constitution (Article 8) citizenship obtained at birth cannot be revoked. The principle has been incorporated into the Citizenship Act (Article 5(3)). A naturalised citizen can be stripped of his Estonian citizenship if he or she attempts to change the constitutional system of Estonia by force, as an Estonian citizen, enters state public service or military service for a foreign state without permission, and so on. Citizenship can be revoked in this way even if as a result the person concerned becomes stateless. The citizenship is revoked by a government decision, not by that of a court. It is prohibited to deprive an individual of the Estonian citizenship because of his or her beliefs (Article 28).

1.3. Fundamentals of Migration Policy

In Estonia the number of individuals belonging to minorities grew fourfold after the end of World War II, reaching 38.5% of the population by March 1989⁶⁸ (Table 1). When Estonia regained its independence, the people who were permanent residents and citizens of the Estonian Soviet Socialist Republic but who had not been citizens of the pre-war independent Republic of Estonia as of July 16, 1940, or their descendants, became ‘aliens.’⁶⁹ The legal foundations for their presence

in Estonia were defined by the Aliens Act passed on July 8, 1993. The same act (Article 20(2) of its first version) guaranteed to these ‘aliens’ who had a permanent registration (*propiska*) in Estonia as of July 1, 1990, and whose legal status was in line with the requirements of the act, the right to a residence permit (a temporary permit, initially) and to a work permit. A part of the population that could claim Estonian citizenship on the basis of the pre-war law – mostly women married to men who were Estonian citizens by birth, and their children from previous marriages, were, at the same time, recognised as citizens.⁷⁰ Most individuals belonging to minorities were not descendants of citizens of the pre-war Estonia. According to official estimates in 1992, a third of Estonia’s population were ‘individuals with undefined citizenship’.⁷¹

As noted above, Estonia’s population is divided into four major groups (2000 national census data): Estonian citizens (around 80% of the population), Russian citizens (6.3%), citizens of other countries (0.7%), and ‘individuals with undefined citizenship’ (the stateless former citizens of the USSR and their descendants) (12.4%).⁷² Most of the stateless people were ethnic non-Estonians (97%).⁷³ 53% of ethnic Russians in Estonia were born in the country, and 42% in Russia.⁷⁴ Only 21% of the Russian citizens were born in Estonia. In contrast, most of the stateless people were born in Estonia (52%).⁷⁵

As of January 2, 2009 there were 110,284 ‘individuals with undefined citizenship’, 96,616 Russian citizens, and 9,445 citizens of other countries holding valid residence permits in Estonia.⁷⁶ According to the Population Registry as of March 2009 non-citizens made up 16.1% of the country’s population (7.7% were stateless and there were 8.4% others).⁷⁷

Table 6.
The legal status of minorities in Estonia according to the 2000 national census

Citizenship	%
Estonia	39.5
‘Undefined citizenship’ (stateless former Soviet citizens and their descendants)	37.6
Russia	19.4
Other and unknown	3.5

Source: Statistics Estonia⁷⁸

Throughout the recent years the number of stateless people in the country has been decreasing due to migration, naturalisation in Estonia, mortality, and adoption of Russian citizenship. For example, 7,072 people obtained Estonian citizenship in 2005, 4,753 in 2006, 4,229 in 2007, and 2,124 in 2008 (Table 5). Overall, 149,351 people, most of them formerly stateless, were naturalised in Estonia in 1992 – 2008.⁷⁹

In recent years there has been an increase in the number of residents of Estonia obtaining Russian citizenship. It was obtained by 1,450 people in 2003, by 3,861 people in 2004, by 5,306 people in 2005, and by 3,124 people in 2006.⁸⁰ The increase resumed in 2007: in the period August 2007 – March 2008, the number of Russian citizenship applications more than doubled compared to the same months in 2006 – 2007. According to the Russian Embassy in Tallinn, “a considerable number of applicants indicated that they were motivated by a “loss of confidence in the Estonian administration and in Estonian democracy” after the events of April 2007” (when a Soviet war memorial was controversially removed from the centre of town, an event which led to violent clashes) and “by the now available unimpeded opportunities to travel to Russia and Europe and to get jobs there after Estonia joined Schengen”.⁸¹ The total number of people in Estonia who have received Russian citizenship in the period 1992 – 2007 is 147,659.⁸² This is much higher than the number of Russian citizens currently residing in Estonia.

There are no complete and fully reliable statistics reflecting migration flows in Estonia. According to the data supplied by the Statistics Estonia, over 26,000 people (2% of the whole population) – 81% of them Estonian citizens and 59% ethnic Estonians – left Estonia in 2000 – 2007.⁸³ Only 16% of those who left went to the CIS countries.⁸⁴

In 2007 the *Faktum & Ariko* Group presented a study entitled “The Level of Awareness and the Attitude of Estonian Residents to Refugees”. As in the similar 2006 study, half of those polled said that migration had a negative impact on Estonia. Greater tolerance to potential immigrants from Russia/CIS, North America, and Japan was demonstrated, but the level of readiness to receive immigrants from Russia/CIS decreased compared to past years, both among the majority and the minorities. The approach to immigrants from Muslim and African countries was the least tolerant.⁸⁵

According to the 2006 poll, most of the Russian citizens and stateless people in Estonia would not recommend people living abroad to move to the country. Those who would recommend it cited primarily Estonia's higher living standards and the opportunities to move from it to other EU countries. 41% of the citizens of Estonia, 57% of the Russian citizens, and 55% of the stateless did not recommend moving to Estonia, mostly citing as the reason the feeling that they were treated as 'second rate people' (citizens of Estonia, 36%; Russian citizens, 49%; stateless, 48%). Roughly the same numbers of respondents referred to the difficulty of finding a job.⁸⁶

1.3.1. Legal Bases for the Stay of Aliens

a). General Rules

The Aliens Act passed on July 8, 1993 is the main legislation regulating the status of non-citizens in Estonia. By mid-2008 there were 47 amendments adopted by the Parliament to change various provisions of this Act. Both foreign citizens and stateless people are regarded as 'aliens' by this law (Article 3). On the whole, Estonian legislation does not distinguish between these two categories of non-citizens. *Since 2004, the status of EU citizens, the countries of the European Economic Area and Switzerland, and their family members, has been regulated by separate laws (currently by the 2006 Citizen of European Union Act).*

According to the Aliens Act (Article 5-1) the legal bases for aliens to enter Estonia and to stay in Estonia are:

- an Estonian residence permit;
- a residence permit issued by a competent agency of a member state of the European Union, a member state of the European Economic Area or the Swiss Confederation, except Estonia;
- an Estonian visa;
- a uniform visa issued by a competent agency of a member state of the European Union, a member state of the European Economic Area or the Swiss Confederation, except Estonia;
- the right to stay in Estonia arising from an international agreement;
- the right to stay in Estonia arising from a resolution of the Government of the Republic to forego the visa requirement;

- the right or obligation to stay in Estonia directly arising from law, a court decision or an administrative act;
- a residence permit or a return visa issued by a competent agency which belongs to the common visa area.

In the mid-1990s, the stateless former citizens of the USSR faced problems with having valid IDs necessary to live in Estonia and to travel abroad. Thanks to pressure exerted by Western countries and organisations, but only in 1996 after several years in which there was a legislative vacuum, these persons received the right to special 'alien passports',⁸⁷ which could be used as IDs in and outside of Estonia.

Foreigners who received residence permits before July 12, 1995 and who are not among the aliens specified in Article 12(4) of the Aliens Act, retain the rights and duties provided for in the earlier legislation of the Republic of Estonia (Article 20(1) of the Aliens Act). In general, any new Estonian legislation can abrogate the existing order and deprive a category of individuals of their former rights and duties. The Act affords no similar guarantees to aliens not belonging in the above category (for example, former foreign military servicemen, individuals sentenced to terms longer than one year for criminal offences, etc.).

b). Temporary Residence Permits

Temporary residence permits can be issued to an alien (Article 12(1)-(2) of the Aliens Act):

- for employment;
- for enterprise;
- for study in an educational institution;
- to settle with a close relative permanently resident in Estonia;
- whose permanent legal income ensures their subsistence in Estonia;
- whose application for a residence permit is based on an international agreement;
- who is married to a person permanently resident in Estonia.

As a rule the first application should be submitted to an Estonian representation outside the country. A number of exceptions are allowed by the Act (for example, for the members of families of Estonian citizens). An ethnically-based privilege is extended to ethnic Estonians,

their spouses, and minor children (Article 11-1). The provision is based on Article 36 of the Constitution which says that every ethnic Estonian has the right to settle in Estonia.

The Aliens Act has also established an annual immigration quota. The provision was revised after a judgment by the Supreme Court when lawyers from the Legal Information Centre for Human Rights proved that the quota could violate one of the fundamental rights – the right to family life.⁸⁸ Currently the quota equals 0.1% of the permanent population of Estonia and is not applied in most cases of family reunions. Every ethnic Estonian has the right to settle in Estonia outside of the immigration quota. The immigration quota does not apply to citizens of the US and Japan (Article 6).

Notably, significant numbers of residence permits have been issued based on international agreements (obviously to former Soviet military servicemen – see below). So, 2,363 residence permits were issued based on international treaties in 2006 and 1,436 in 2007, while 1,185 and 1,572 were issued the same years to allow people to settle with their families (Table 7).

Table 7.
Numbers of temporary residence permits issued on various bases in 2006 – June 2008

Basis /year	2006	2007	2008 (January – June)
Family reunion	1,185	1,572	684
Employment	565	733	492
Enterprise	7	3	31
Study	207	286	87
Legal income	43	35	13
International agreements	2,363	1,436	544
Total	4,370	4,065	1,851

Source: Citizenship and Migration Board⁸⁹

The Estonian migration law has many defects and ignores a broad range of situations potentially confronting aliens.

A Russian citizen had to move to Estonia from Kenya to take care of her parents who experienced serious health problems. When her

residence permit expired it transpired that there existed no legal basis for its renewal. She could not apply for a residence permit to settle with her close relative as Article 12-3(1) of the current version of the Aliens Act does not allow adult children to settle with their parents to take care of them. Nor was she able to get a residence permit for employment: according to Article 13-3 of the Aliens Act, that is possible only if a vacant position has not been filled, within the period of two months (now three weeks), by means of public competition and through the services of a state employment agency, by employing an Estonian citizen or an alien residing in Estonia, on the basis of a residence permit. Besides, the alien seeking to fill the vacancy has to have adequate qualifications, training, health condition, and work experience. Eventually, lawyers from the Legal Information Centre for Human Rights recommended that she apply for a residence permit based on an international human rights agreement, and only thus did she get it.⁹⁰

According to Article 14(2) of the Aliens Act, a temporary residence permit or work permit shall be revoked if an alien stays outside Estonia for more than a total of 183 days in a year if he or she does not register his or her absence with the Citizenship and Migration Board.

c). The Status of a Long-Term Resident of the EC

When the Aliens Act was passed in 1993, most of Estonia's Soviet-era residents were guaranteed temporary and later permanent residence permits in the country. Some people failed to obtain permanent permits since they had no permanent income or place of residence. According to the previous version of Article 12(3) of the Aliens Act, a permanent residence permit could be issued to an alien who had resided in Estonia for at least three of the last five years on the basis of a temporary residence permit, if his or her permanent legal income ensured his or her subsistence in Estonia, and if he or she has a valid residence permit and a place of residence in Estonia (unless otherwise provided by law). A permanent residence permit could not be issued to an alien who obtained a temporary residence permit for employment or study.

In April 2006 in order to transpose the Council Directive 2003/109/EC⁹¹ Estonia changed⁹² the Aliens Act and introduced the status of a

so-called long-term resident of the European Community (referred to as Status in what follows). All individuals holding permanent residence permits were automatically recognised as having the Status (Article 23-7(1) of the Aliens Act). As of January 1, 2006, some 85% of the valid residence permits were permanent (207,448).⁹³

According to the general rule now others had to fulfil the so-called integration requirement – by passing a test in Estonian – prior to submitting the Status applications. Individuals younger than 15 and older than 65, as well as those with limited legal capacity, are exempt from the requirement (Article 14-5). The integration requirement entered into force only in July 2007 and, as a result, the opportunity to obtain a permanent residence permit without taking the language test remained open for a year.⁹⁴ It could also be used by the categories of people who previously were unable to obtain permanent residence permits (for example, Soviet and Russian military pensioners). It should be noted, however, that some of the requirements were actually tightened: the period of residence necessary for a permanent permit to be issued rose from 3 to 5 years (Article 12(3) of the old version / Article 14-4(1) of the new one).

According to Article 14-9 of the Aliens Act, the long-term resident status can be annulled, among other reasons, if its holder spends 12 months continuously outside the EU or 6 years continuously outside Estonia; if the same status is granted to the holder in another EU member state; or if the holder poses a serious threat to public order and security (the Act does not specify what this condition actually means).

In 2006, the Citizenship and Migration Board issued 7,090 long-term residents' residence permits. In June 2007 there were 202,699 people with the Status in Estonia.⁹⁵ Thus, currently most non-citizens living in Estonia have the Status.

1.3.2. Special Groups of Aliens

The Aliens Act bars certain groups of aliens from obtaining temporary residence permits (Article 12(4)). The ban is formulated in vague terms and clearly leaves a lot to the discretion of Estonian officials. For example, Subsection 3 reads that a residence permit cannot

be issued to an alien if his or her activities “have been or are or there is good reason to believe that such activities have been or are directed against the Estonian state and its security”. This formulation makes it possible to act on the basis of suspicions instead of established facts. Similar formulations are found in other subsections of Article 12(4).

Temporary residence permits or work permits shall be revoked in the cases listed in subsections of Article 12(4) (Article 14(2) 1 of the Aliens Act). For example, problems with residence permit issuance and extension would be faced by individuals who had committed criminal offences, for which they were sentenced to more than one year in prison, or who had been repeatedly punished pursuant to criminal procedures for intentionally committed criminal offenses (Article 12(4) 5 and 8).

In practice, difficulties arise when aliens who served in the armed forces of other countries retired or became reservists and apply for residence permits. These people are given no right to residence permits, though individual exceptions are allowed. Besides, the ban on issuing permits also applies to their spouses and underage children (Articles 12(4) 7 and 14). The ban does not apply to citizens of NATO countries and their family members (Article 12(7)).

At present some 10,000 Soviet/Russian military servicemen and their family members – relatively old people, for the most part – live in Estonia.⁹⁶ Their right to residence was ensured by the so-called 1994 July Agreement between Estonia and Russia.⁹⁷ According to Article 2(1) of the Agreement, former Soviet/Russian military servicemen were entitled to residence permits if they posed no threat to Estonia's security. Until recently, only temporary residence permits were issued to them and to their family members ‘as exceptions.’ In the October 24, 2002 judgment,⁹⁸ the Supreme Court recognised that their right to residence permits was based on an international agreement and that they could apply even for permanent residence permits. In December 2003, the Aliens Act was amended to resume the ban on issuing permanent residence permits to this category of citizens.⁹⁹ The limitations, however, stopped making sense after the introduction of the status of a long-term resident of the EC (see above).

Estonia's official position is that individuals who retired after the signing of the July 1994 Agreement between Russia and Estonia should

not be protected by its provisions. The Supreme Court adopted a similar stance on the issue.¹⁰⁰ As a result, the residence permit applications submitted by members of some 115 families were initially turned down with a reference to Article 12(9) 4 of the Aliens Act which says that residence permits cannot be issued to individuals who had committed to leaving the Republic of Estonia, who had received a residential space abroad within the framework of an international aid programme, or who had received support for leaving Estonia. The 115 families were enrolled in the US-sponsored programme based on a bilateral US-Russia agreement in the early 1990s, and later obtained temporary residence permits in Estonia.

A former security service employee, his or her spouse and underage children cannot be issued a residence permit if “his or her age, rank or other circumstances do not preclude his or her conscription into service in the security forces or armed forces or other armed units of his or her country of nationality” (Article 12(4) 10 and 14). The rule does not apply to citizens of NATO countries and their family members (Article 12(7)). The above limitations therefore principally affect former KGB employees, regardless of their specific occupations during their service.

1.3.3. Illegal Aliens. Expulsion

The conservative estimate of the number of illegal aliens in Estonia puts their number at several thousands. They can be divided into two major groups: those who used to live in Estonia before 1990 – 1991 and ‘newcomers’. The first category comprises the individuals who failed to get residence permits due to the restrictive and inflexible character of the Estonian migration legislation or their personal mishaps. The second category consists mainly of people working in Estonia illegally or who have not previously got residence permits to settle with their families due to the immigration quota.

According to the Obligation to Leave and Prohibition on Entry Act, an illegal alien can be ordered either to leave the republic or to legalise his or her residence. Both orders can be appealed in court (Article 13(3)).

Legalisation can be prescribed to ethnic Estonians and to individuals who settled in the country before July 1, 1990 if they have not left Estonia to reside in another country and if their presence causes no damage to the interests of the Estonian state (Article 9(1)). According to the Aliens Act (Articles 6(2), 11-1(2) 1 and 10, and Article 21), such non-citizens can apply for a residence permit outside the annual immigration quota and submit applications from within Estonia. However, many illegal aliens will not be able to apply, since there is no the legal basis for them to do so. In practice only family reunion can be cited as an argument for granting them residence permits.

Individuals subject to expulsion can be detained in the Expulsion Centre. In one extreme case, Nikolay Mikolenko was held in it on the basis of a court warrant which was renewed over and over for about 3 years until he was released by a court ruling based on humanitarian considerations. Currently his wife remains in custody in the Centre. Mikolenko failed to contest the decision to expel him from Estonia but the expulsion was made impossible because he had no valid IDs (in his case it was a Russian passport).¹⁰¹

It is obviously inappropriate in terms of human rights to keep a person in custody for several years if you cannot expel him or her immediately. In 2006 the Supreme Court concluded that even if expulsion is probable, the term of detention in the Centre should not be extended in case it becomes a disproportionate infringement on the constitutional right to freedom and inviolability of the person.¹⁰²

Since March 1, 2003,¹⁰³ aliens who entered Estonia with valid visas can be expelled without an administrative court warrant or a precept if their visas have expired. Aliens if they have received criminal convictions and have no valid residence permits can also be expelled upon release from prison without an administrative court warrant or a precept (Obligation to Leave and Prohibition on Entry Act, Article 14(31)-(32)). Formally the rule applies to the majority of illegal ‘newcomers’.

A new version of Article 33¹⁰⁴ of the Obligation to Leave and Prohibition on Entry Act entered into force since December 21, 2007. If an individual’s entry to Estonia is banned, his or her name is added to the SIS – the Schengen Information System – which makes it impossible to enter the Schengen zone via any of its border checkpoints.¹⁰⁵ The

administration can limit the ban on entry to the territory of Estonia or choose not to do so. According to Article 33-2 of the Act, an individual should be informed about a ban on entry if he or she requests the information. Article 33-3 says that the ban on entry can be contested by an individual within 30 days after having being informed about it.

In May – August 2007, Estonia expelled 10 activists of the Nashi (pro-government youth movement in Russia) who entered the country with tourist visas.¹⁰⁶ Their visas were annulled and the young people were banned from entering Estonia for 10 years after they dressed in World War II Soviet Army uniform and attempted to hold a vigil replicating the pose of the Bronze Soldier statue moved from Tõnismägi Square by the Estonian administration. The expulsion was widely commented on by Estonian officials and politicians. Some of the Nashi activists who did not travel to Estonia but took part in protests near Estonian representations in Russia also face problems with entering the Schengen zone countries, as the Estonian authorities placed their names in the SIS database.¹⁰⁷

1.4. Fight against Ethnic, Racial, and Religious Discrimination on the State Level

1.4.1. Legislation

a). *Constitutional Guarantees*

Article 12 of the Estonian Constitution says that everyone is equal before the law and no one shall be discriminated against on the basis of ethnicity, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The constitutional principle of non-discrimination is reiterated by a number of laws. It is a commonly held view that the Constitution prohibits discrimination on any basis including those listed in Article 12. This is a significant circumstance as in Estonia the Constitution is directly applicable in the courts.

As for equality before the law, the Supreme Court's Constitutional Review Chamber confirmed that the principle applies to all spheres

of life. The court also stated clearly that equality before the law is a fundamental right.¹⁰⁸

Cases in which parties invoke Article 12 of the Constitution per se come to the Supreme Court, but no ethnic, racial, or religious discrimination cases have ever been heard in it. Nevertheless, the Supreme Court has developed a number of significant principles concerning unequal treatment. On the whole, Article 12 of the Constitution should be interpreted so as “those who are equal must be treated equally and those who are unequal must be treated unequally [...] The prohibition to treat equal persons unequally has been violated if two persons, groups of persons or situations are treated arbitrarily unequally. An unequal treatment can be regarded as arbitrary if there is no reasonable cause there for”.¹⁰⁹ The issue of whether unequal treatment of two persons, two groups of persons or situations “is justified or unjustified (i.e. arbitrary) can only arise if the groups who are treated differently are comparable, i.e. they are in an analogous situation from the aspect of concrete differentiation”.¹¹⁰ In one of its judgments the Supreme Court showed clearly that “unequal treatment can not be justified by difficulties of mere administrative and technical nature”.¹¹¹

*In September, 2007 the Constitutional Review Chamber of the Supreme Court ruled that Articles 120 and 131(3) of the Public Service Act were unconstitutional because they envisioned the right to sack officials when they reached the age of 65 and established compensations for such occasions. The Supreme Court cited its own practice and stressed that arbitrary unequal treatment would be unconstitutional. In the case heard there were no rational reasons warranting the inequality set by the law. The Court ruled that the unequal treatment of senior-age officials was unreasonable, unjustified, and obviously arbitrary.*¹¹²

However the ban on discrimination is not absolute and must be considered in the light of Article 11 of the Constitution according to which “[r]ights and freedoms may be restricted only in accordance with the Constitution. Such restrictions must be necessary in a democratic society and shall not distort the nature of the rights and freedoms restricted.”

Article 9(1) of the Constitution reads: “The rights, freedoms and duties of each and every person, as set out in the Constitution, shall be equal for Estonian citizens and for citizens of foreign states and stateless persons in Estonia.” Nevertheless, treating citizens and non-citizens unequally is allowed in certain spheres such as state assistance (Article 28), the right to freely choose the area of activity, profession and place of work (Article 29), and the right to engage in enterprise and to form commercial undertakings and unions (Article 31).

b). Criminal Law

A special provision of the Penal Code which entered into force in September, 2002 (Article 152) makes punishable the unlawful restriction of the rights of a person, or the granting of unlawful preferences to a person, on the basis of his or her ethnicity, race, colour, sex, language, origin, sexual orientation (from 2006), religion, political opinion, financial or social status. However, no charges had been pressed in connection with the Article in 2003 – 2007.¹¹³

The following Articles of the Penal Code could play an important role in the context of the struggle against discrimination: Article 151 (incitement of hatred), Article 153 (discrimination based on genetic risks), Article 154 (violation of freedom of religion), and Article 155 (compelling a person to join or retain membership of a religious association). However, only Article 151 dealing with the incitement of hatred has been used over recent years. The practice of its application is examined in detail in Section 2.2.a below.

c). Implementation of EU Anti-Discrimination Norms in Estonia

In 2000 the EU passed a directive banning discrimination based on race and ethnic origin practically in all spheres of public life (the so-called Race Directive). Another directive passed the same year banned discrimination in the labour market based on religion, age, disabilities, and sexual orientation.¹¹⁴ Estonia as well as other EU candidate states was supposed to transpose the requirements contained in the directives into their national legislations by May 1, 2004. (Directives are binding EU acts and their requirements must be incorporated into national law.)

In 2004 Estonia passed a separate Gender Equality Act. As for discrimination on other grounds, the Employment Contracts Act and

the Chancellor of Justice Act were amended in 2004 as a temporary solution. Two Estonian parliaments failed to pass legislation drafts intended to complete the implementation of European norms in the national legislation before the new elections held in 2003 and 2007 (the 9th Riigikogu did not pass draft no. 1198 and the 10th – no. 1101). In May, 2007 the Estonian government approved a third draft of the Equal Treatment Act (draft no. 67 submitted to the 11th Riigikogu), but it was rejected in May, 2008. Subsequently draft no. 262 of similar content was submitted but again it fell one vote short of being passed. Draft no. 384 was submitted on November 6, 2008 and was passed by the parliament on December 11, 2008. By this legal move most of EU discrimination-related provisions were finally transposed into national legislation.

Thus, it took Estonian legislators about five years to introduce detailed norms for protection against discrimination based on race, ethnic origin, religion, age, and sexual orientation aligned with the requirements spelled out in EU directives.¹¹⁵

d). Labour Law

As of late 2008, more progress towards the implementation of the EU anti-discrimination requirements was made in Estonia's labour law than in other legislation spheres. The corresponding amendments to the Employment Contracts Act were passed in 2004.¹¹⁶ The Act does not regulate the labour relations of a number of areas, for example the work of state and local government officials. As a result, the scope of the anti-discrimination provisions of the Employment Contracts Act was not as broad as required by the EU directives concerning the labour market.

Article 10 of the Employment Contracts Act prohibited discrimination based on race, ethnic origin, level of language proficiency, religion and other views.

The Employment Contracts Act contained definitions of direct and indirect discrimination similar to those found in the EU directives. The term ‘harassment’¹¹⁷ was given a wider interpretation in the EU directives than in Estonia's national law. Estonian legislators did not implement the provisions concerning, for example, the protection of individuals victimised as a result of discrimination if they took their cases to court, etc. These shortcomings were eliminated when the Equal Treatment Act was passed.

e). The New Equal Treatment Act

The Equal Treatment Act entered into force on January 1, 2009. It includes definitions of direct and indirect discrimination and rules for protecting victims of discrimination against harassment and victimisation (Article 3) which are practically identical to those spelled out in the EU directives.

Detailed anti-discrimination norms are established not only for the private sector but also for state and municipal officials (Article 2).

As for discrimination based on race and ethnic origin, the Act's scope includes not only employment but also the spheres of education, social protection, including social security and healthcare, social advantages, and access to and supply of goods and services which are available to the public, including housing (Article 2).

The Equal Treatment Act (Article 10) states that a difference of treatment shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned, or of the context in which they are carried out, the attribute at issue constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate. Specific measures ('positive actions') to prevent or compensate for disadvantages linked to any of the attributes specified by the Act are allowed, provided that such action is in proportion to the objective being sought (Article 6).

Article 9(1) of the Equal Treatment Act provides that measures do not prejudice the adoption or maintenance of specific measures which are in accordance with law and are necessary to ensure public order and security, to prevent criminal offences, or to protect the health, rights and freedoms of others. Any such act must be in proportion to the objective being sought. Despite the proportionality requirement, this provision is not in conformity with the requirements contained in the 2000/43/EC Directive, as the Estonian legislation allows exceptions from the ban on direct discrimination based on ethnicity and race, whereas the directive affords them solely in the case of genuine and determining occupational requirements or in the context of positive actions.

Changes in the Public Service Act were introduced by the Equal Treatment Act. The improvements include the ban on discriminating against state and local self-government officials on the basis of sex,

ethnic origin, race, colour, religion or other beliefs, age, disability, sexual orientation, level of language proficiency, duty to serve in defence forces, marital or family status, family-related duties, social status, representation the interests of public servants or membership in an organisation of public servants. The Equal Treatment Act should be invoked whenever discrimination on any of the above grounds takes place (Article 36-1(1)-(2) of the Public Service Act).

Questions arise in connection with Article 36-1(3) of the Public Service Act which states that unequal treatment based on language proficiency should not be regarded as discrimination if it is allowed by the Language Act or the Public Service Act. A deliberate tightening of the language requirements can lead to indirect discrimination based on race or ethnic origin. By allowing the exception from the general rule, the Estonian legislators de facto refused to comply fully with the requirements of the 2000/43/EC Directive.

1.4.2. Specialised Institutions Charged With Fighting Discrimination

In an effort to meet the EU law requirements, Estonia amended¹¹⁸ the Chancellor of Justice Act in 2003 to convert the Chancellor's bureau into a specialised institution charged with fighting discrimination.

Two procedures are available to the Chancellor of Justice depending on who is responsible for discrimination: (1) a state agency, local government agency or body, a legal person in public law (for example, a school), a natural person or legal persons in private law performing public duties; or (2) a private legal entity or an individual. In the former case the Chancellor acts as the ombudsman and can initiate proceedings on his or her own initiative; in the latter case, the Chancellor is authorised to conduct a conciliation procedure in which both the victim and the alleged perpetrator of discrimination are free to partake or not.

Everyone has the right of recourse to the Chancellor of Justice if discriminated against in the public sphere. In the private sphere, the list of grounds of discrimination includes sex, race, ethnic origin, colour, language, origin, religion or religious beliefs, political or other opinion, property or social status, age, disability, sexual orientation, or other

attributes specified by law (Article 19 of the Chancellor of Justice Act). Allegations of discrimination concerning the professing and practicing of faith, or working as a minister of a religion in religious associations with registered articles of association, relations in family or private life, and inheritance issues do not fall within the competence of the Chancellor of Justice (Article 35-5(2)).

Agreements signed by conflicting parties in the framework of the conciliation procedure supervised by the Chancellor have the same consequences as court judgments: implementation of an agreement approved by the Chancellor of Justice is mandatory for the parties to conciliation proceedings. An agreement may conclude obligation to pay compensation. An agreement approved by the Chancellor of Justice is final and cannot be contested in court, except if the Chancellor of Justice has materially violated a provision of the conciliation procedure and if such violation affects or may affect the content of the agreement (Articles 35-14, 35-15).

The problem of unequal treatment was addressed by the Chancellor's bureau in 2007 in 60 procedures (23 procedures in 2006).¹¹⁹ Nevertheless, very few of these cases dealt with ethnically or racially based discrimination.

As for the conciliation procedure, at most a dozen petitions were submitted to the Chancellor, and in 2004 – 2007, for various reasons, none of them reached the final stage.¹²⁰

The labour disputes commissions (a pre-trial institution) received 14 discrimination-related complaints in 2006 – 2007. None of them involved allegations of ethnic, racial, or religious discrimination.¹²¹

In the 2006 Concluding Observations on Estonia, the UN Committee on the Elimination of Racial Discrimination expressed concern that very few proceedings related to racial discriminations were brought in the country: “The Committee reminds the State party that the mere absence of complaints and of legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute.”¹²²

In addition to the Chancellor of Justice, the Equal Treatment Act which entered into force on 1 January 2009 establishes the position of the Commissioner for Gender Equality and Equal Treatment (in practice

broadening the mandate of the Gender Equality Commissioner). Among other responsibilities, the Commissioner will assess the compliance with the equal treatment principle in a particular legal relationship (Article 17(2)). He or she will also be charged with publishing reports on implementation of the principle of gender equality and equal treatment (Article 16(7)).

1.4.3. Discrimination in Public Opinion

a). *The 2006 and 2008 Eurobarometer Studies*

A special study of discrimination was conducted in 2008 on the initiative of the European Commission's Directorate-General for Employment, Social Affairs and Equal Opportunities. It was based on the standard *Eurobarometer* approach used in regular EU public opinion surveys sponsored by the European Commission. The Estonian survey was performed by TNS Emor with a representative sample (1,000 interviews with citizens of Estonia and other EU countries).¹²³ A similar study was also conducted in June – July 2006.¹²⁴

The survey showed that most of the respondents from Estonia responded to questions about discrimination with greater optimism than their peers across the EU on average. On the whole, Estonian respondents said that the most widespread type of discrimination (judging by the sum of replies such as ‘very widespread’ and ‘fairly widespread’) was that based on disabilities (40%), age (36%), and ethnic origin (41%). The corresponding EU averages were 45%, 42%, and 62%.¹²⁵ In 2006 the Estonian indicators were: disability 49%, age 48%, ethnic origin 37%.¹²⁶

To probe into the extent of openness/tolerance in the framework of the 2008 survey, the respondents were asked the question whether they had friends/acquaintances of ethnic or racial origin other than their own. While the average EU indicator was 55%, in Estonia it was 78% (76% in 2006).¹²⁷ As particular attention is currently paid by the EU to Roma, a separate question in the survey was asked about friends or acquaintances from this community. While the EU average was 14% it was 7% in Estonia.¹²⁸ It is unclear what the explanation behind the data could be, as the Roma constitute 0.1% of the population of Estonia at most.

In 2006, 41% of the respondents in Estonia believed that their state did enough to fight all types of discrimination. The indicator was close to the EU average of 45%. However, only 19% of Estonian respondents said they were aware of their rights in the case of being discriminated against.¹²⁹ Of all the 25 countries surveyed, only Austria showed a poorer performance in this respect. On average, in 2006 one out of three respondents in the EU knew what his or her rights would be in the case of discrimination.¹³⁰ By 2008 the indicator in Estonia had reached 33% and thus equalled the EU average. There was also an increase in the share of respondents to 47% – close to the EU average of 48%¹³¹ – who were convinced that Estonia was making sufficient efforts to fight all types of discrimination. It is unclear what the shifts could be attributed to, since the administration did not launch any visible campaigns related to fighting discrimination, the Equal Treatment Act was passed only in late 2008, and the results of the work of the corresponding institutions outlined above were modest (Section 1.4.2).

b). The 2005 Survey in Tallinn

What makes the situation in Tallinn particularly interesting is the fact that Estonians and other Russian-speakers are represented in its population in roughly equal numbers. Not only inter-ethnic contacts but also competition between the city’s two largest communities are inevitable under the circumstances. Issues of ethnic and linguistic discrimination were at the focus of a study performed by the Legal Information Centre for Human Rights in Tallinn in 2005. The sociological firm Saar Poll used a standard representative sample of 700 people including 375 ethnic non-Estonians. The majority of those polled stated that the two largest ethnic groups were isolated from each other. At the same time, many respondents did not regard the ethnic division as evidence of discrimination in society. Almost a third of the ethnic non-Estonian respondents said there existed inequality between the two ethnic groups, and the same view was held by 17% of the Estonians. Only a small minority was convinced that ethnic groups were equal in Estonia (Table 8).

Table 8.
What is your assessment of the current situation in society? Tallinn, 2005

	Across the survey		Ethnic groups			
	Number	%	Estonians		Non-Estonians	
			Number	%	Number	%
The society is divided, there is apparent inequality (discrimination)	170	24.3	55	16.9	115	30.7
Ethnic groups are isolated from each other but there is no apparent discrimination	427	61.0	205	63.1	222	59.2
Ethnic groups are equal and enjoy partnership and cooperation	65	9.3	41	12.6	24	6.4
Have no answer	38	5.4	24	7.4	14	3.7
Total	700	100.0	325	100.0	375	100.0

Source: Legal Information Centre for Human Rights – Saar Poll¹³²

The study was also aimed at comparing the perceptions of respondents regarding opportunities of ethnic Estonians and non-Estonians in various spheres of life (Table 9).

Practically all indicators in Table 9 are below 4 (average), which means that, in the respondents’ opinion, ethnic Estonians have advantages in all of the above spheres of life. For minorities the only exception to the rule is the possibility to take part in church and religious life. Ethnic Estonians also express the view that equal opportunities are opened to minorities in the material sphere (success in business and the achievement of material security), though non-Estonians do not think so.

Respondents were also asked whether their rights have been restricted during the last three years, and whether they experienced degrading treatment based on their ethnic origin. Table 10 shows that both ethnic Estonians and non-Estonians most often encountered (or believe that they encountered) restrictions of their rights and degrading treatment based on ethnicity in the retail and transportation sectors.

Table 9.

For whom are the following things easier, other things being equal including command of the official language and Estonian citizenship?

(1 – Easier for Estonians; 4 – the opportunities are equal; 7 – easier for non-Estonians), Tallinn, 2005

	Across the survey	Ethnic groups	
		Estonians	Non-Estonians
Make a career in politics	2.25	2.98	1.62
Be successful in business	3.25	3.90	2.70
Get good education	2.92	3.59	2.35
Achieve economic welfare	3.19	3.94	2.55
Get pensions and benefits	3.57	3.77	3.39
Participate in religious and church life	3.91	3.93	3.89

Source: Legal Information Centre for Human Rights – Saar Poll¹³³

Table 10.

Experience of the infringement of rights or maltreatment in the past three years due to ethnic background, Tallinn, 2005,%¹³⁴

	Ethnic Estonians		Ethnic non-Estonians							
			Total		Naturalised citizens of Estonia		Citizens of Russia		Stateless	
	yes	no	yes	no	yes	no	yes	no	yes	no
Educational establishments	2.8	58.5	11.2	53.6	11.4	59.3	5.1	41.0	12.0	55.0
Shops	12.3	74.2	28.8	65.6	21.1	74.0	38.5	55.1	38.0	58.0
Bars and , restaurants	5.8	72.0	9.9	74.9	6.5	82.9	7.7	64.1	12.0	75.0
Housing	3.1	63.7	12.5	66.4	13.0	67.5	12.8	61.5	15.0	72.0
Transport	8.0	75.1	21.3	73.3	15.4	78.9	23.1	73.1	29.0	69.0
Work	1.8	–	17.1	–	15.4	–	16.7	–	23.0	–

Source: Legal Information Centre for Human Rights – Saar Poll¹³⁵

The authors of the study note that the data does not necessarily reflect the real cases of discrimination in the legal sense of the word. Although under certain circumstances non-Estonians cite unequal treatment based on ethnicity and language 10 times more often than Estonians, on the whole the situation is far from critical in the respondents' view. One can suppose that because discrimination is not discussed much in public, people are not inclined to interpret the difficulties they experience daily in this light.¹³⁶

c). The 2007 Pan-Estonian Survey

The first broad study of the problem of unequal treatment spanning the entire Estonia was carried out only in 2007 (commissioned by the Ministry of Social Affairs in the framework of European Year of Equal Opportunities). A representative survey involving 1,208 people was carried out by *Turu-Uuringute AS* in May – June, 2007, shortly after the mass protests in Tallinn ignited by the relocation of the Soviet World War II memorial from Tõnismägi Square. The then-recent events highlighted the importance of a number of problems related to ethnicity, native language, etc. Dealing with these contentious issues, sociologists nevertheless claimed that “the sensitivity of the theme as such was no reason to anticipate overstatements or distortions in the responses”.¹³⁷

Responses to the question about the acuteness of the discrimination problem showed that the audience was divided into two groups of approximately equal sizes: 47% deemed the problem serious while 49% did not. Work was identified most often as the sphere of life where discrimination was encountered. Of those who personally experienced discrimination against themselves during the last three years, 57% said the problem occurred at the workplace. People aged 18 – 29 were particularly vulnerable to discrimination at the workplace. People with very low incomes and incomes higher than average also faced serious discrimination problems related to their work.¹³⁸

The grounds for discrimination mentioned most often by respondents were a lack of fluency in the Estonian language, individual backgrounds, disabilities and long-term health problems, age, ethnic origin, and native language.¹³⁹

A large percentage of the respondents (42%) said they had faced unequal treatment during the past three years. Up to a third of those polled reported that their relatives, friends, or acquaintances had been discriminated against. In the majority of cases, discrimination took place in the service sector and at work. Typically, respondents cited ethnic origin and age as the potential grounds for discrimination. They also said that often factors such as social networking (or lack thereof), material status, lack of Estonian language proficiency, disability, and health problems also appeared to be causes of unequal treatment. The conclusion stemming from the research was that the experience of being discriminated against was predominantly related to the 'ethnicity issue'.¹⁴⁰

The authors emphasise the importance of the following circumstance: "The local so-called non-Estonians (predominantly Russians) became a minority as a result of an overhaul of country borders, not as a result of immigration in the ordinary sense of the word, and the situation bred a broad range of specific problems not encountered in other countries. [...] In contrast to typical immigrants in West Europe, initially these people had high rather than low statuses in their country of residence".¹⁴¹

While only 43% of ethnic Estonians regard unequal treatment as an acute problem, the view is held in the Russian community by 60% of the respondents.¹⁴² Russian-speaking respondents cited ethnic origin, the native language, lack of fluency in Estonian, and citizenship as discrimination grounds more often than Estonian-speakers. Ethnic Estonians tended to mention such grounds for discrimination as gender, age, disability, and material status.¹⁴³

Notably, ethnic non-Estonians fluent in Estonian mentioned the native language as a ground for discrimination more often than those who did not know it well or at all (54% vs. 31%). Similarly the former group regarded the ethnic origin as a factor of discrimination more often than the latter (58% vs. 37%).¹⁴⁴

The ethnic non-Estonians who were fluent in Estonian and who had had the experience of being discriminated against were disadvantaged more often than those who were not fluent when they were getting employed (41% vs. 24%), getting paid (40% vs. 14%),

and being promoted (15% vs. 4%). At the same time, the two groups were in similar conditions in terms of the distribution of duties at work. In the service sector, ethnic non-Estonians spoke more often than Estonians about being discriminated against in terms of access to public information (those who were fluent in Estonian criticised the sphere even more often than those who were not – 38% vs. 14%). One out of five ethnic Estonians and one out of four non-Estonians faced discrimination in stores. At the same time, Estonians were discriminated against more often than non-Estonians when applying for bank loans. Ethnic Estonians also mentioned more often being discriminated against by the health care system (Table 11). The latter finding can be explained by the fact that the population of rural communities and small towns with underdeveloped infrastructures is predominately Estonian.

Thus, contrary to official claims, a proficiency in Estonian provides no guarantee against discrimination based on the ethnicity and native language, especially in the sphere of labour relations. Moreover, a good command of Estonian is linked to an increasing probability of facing discrimination on the grounds of ethnicity and language. One of the explanations behind the phenomenon may be that ethnic non-Estonians fluent in Estonian constitute the younger and better-educated part of the non-Estonian population. As a more mobile group, they get involved in competition more often and therefore are more frequently exposed to potential discrimination. The partial segregation observed on the labour market ('Russian' and 'Estonian' companies or spheres of activity) reduces the likeliness of discrimination within particular sectors. Geographical distribution of the population also factors into the situation (for example, the population in the North-Eastern part of Estonia is predominantly Russian-speaking).

Experts argue that among ethnic non-Estonians those with vocational school and college or university based education, regardless of their sex, face the highest risks of being discriminated against. If a combination of factors such as ethnicity, age, and sex is taken into account, the highest exposure to discrimination is found among young women (aged 18 – 39) regardless of their ethnic origin and young and middle-aged men of the non-Estonian ethnic origin.¹⁴⁵

Table 11.
Spheres in which personal experience of unequal treatment was gained depending on the level of Estonian language proficiency, 2007, %

	Estonian as the native language N=311	Ethnic non-Estonians having a good command of Estonian N=104	Ethnic non-Estonians having a poor or no command of Estonian N=96
LABOUR RELATIONS	53	71	54
Getting employed	17	41	24
Getting paid	28	40	14
Distribution of duties	16	12	13
Promotion	11	15	4
Other work-related situations	9	24	17
EDUCATION	24	28	19
SEVICES SECTOR	60	67	56
Access to public information	7	38	14
Access to health care	24	15	16
Bank loans	16	8	5
Service in stores, etc.	21	27	26
SOCIAL TIES	31	25	44
Neighbours	16	7	12
Family relations	9	6	22
MASS MEDIA	15	42	43
Press	9	37	23
Radio and TV	7	36	30
Internet	7	24	10

Source: Ministry of Social Affairs¹⁴⁶

Half of all those polled said they in no way resisted to being discriminated against. The corresponding percentage among Estonian-speakers was 35%. The level of passivity among native speakers of Russian fluent in Estonian was even higher (64%) than among those speaking little Estonian or not knowing it at all (51%). Regardless of the native language, respondents mostly limited their reactions to discrimination to arguing with the perpetrators, complaining to their superiors, etc. Only 4% of the speakers of Estonian and 1% of the speakers of Russian went to the police or to court. Some 8% of Estonians and no non-

Estonians fluent in Estonian turned to administrative institutions when facing discrimination.¹⁴⁷

The authors of the study concluded that the perception of discrimination largely depended on the wideness of its public discussions. Currently Estonian society most often associates discrimination with ethnic origin. "Respondents appear to interpret some of their experiences as unequal treatment, even though they are not recognised as such by the current Estonian legislation and political decisions. The interpretation is also clearly affected by the intense ethnicity related politicisation in the Estonian society. Nevertheless, the above interpretation is an established fact. It is not only non-citizens who say that discrimination based on ethnicity is a reality; paradoxically the view is most widely held among native speakers of Russian who are Estonian citizens. Since citizenship is expected to ensure the status of a full-fledged member of the society, more attention should be paid to preventing discrimination based on ethnicity in order to facilitate the political integration of the Russian-speakers"¹⁴⁸

PART II.

SPECIFIC ISSUES CONCERNING THE REALISATION OF CIVIL AND POLITICAL RIGHTS

2.1. Participation in Political and Public Life

a). Politics

In 1992, Estonia's last Supreme Soviet re-enacted the Citizenship Act which had been in force before World War II. It thereby stripped a large part of its own electorate (about one third) of voting rights. As a result, the new parliament (Riigikogu) elected in 1992 was 100% Estonian ethnically.¹⁴⁹ Two 'Russian' parties won 6 seats (out of 101) in the 1995 parliamentary elections. In 1999, 6 seats were won by one 'Russian' party. In 2003 and 2007 neither of the 'Russian' parties were elected to the parliament but in both elections six ethnic Russians who ran as candidates from mainstream parties got elected (compared to 2 in 1999).

MPs who are ethnic non-Estonians (from 'Russian' or mainstream parties) had and have practically no influence over the decision-making process. Up to now, Estonia's main political parties have maintained the consensus concerning the fundamentals of the national ethnic politics, including the politics with respect to such issues as citizenship, language, and migration. The above conclusion stems from a comparative analysis of the government coalition accords since 1992.¹⁵⁰ It should be noted that only once since 1992 has an ethnic non-Estonian become a member of the Government of the Republic of Estonia (as a minister without portfolio).¹⁵¹

According to the Riigikogu Election Act (Article 4) only Estonian citizens have the right to vote and to stand as candidates in parliamentary elections.

Initially the Estonian United People's Party, formed in 1994 on the basis of the Representative Assembly of the Russian-Speaking

Population in Estonia, used to be the most popular formation among the non-Estonian population. It enjoyed the reputation of a respectable party espousing politically moderate views. It was represented in the parliament and in the ruling coalitions of a number of local self-governments including that of the city of Tallinn. However the 'Russian' MPs found themselves in a state of permanent isolation in the national parliament, and the role of the Estonian United People's Party in municipal coalitions was typically limited to that of a minor partner who only occasionally managed to implement measures in the interests of its voters. As a result, the Russian-speaking part of the population grew increasingly disappointed and its belief in the efficiency of the 'Russian' political representation has been evaporating.

The case of the Department of Public Security and Integration, created in Tallinn in 2001 with the help of the Estonian United People's Party and with the goal of supporting local integration projects, had serious consequences. In the autumn of 2001, its heads (members of the Estonian United People's Party) were charged with abuses. The investigation by the Security Police was in its initial phase when the Department was abolished. A new Tallinn ruling coalition showed little enthusiasm for integration affairs, and the Tallinn integration programme developed for the Department was never implemented. Though in 2003 the court ruled that the charges against the Department were based on an unprofessional and politically biased audit, and the accused were fully acquitted,¹⁵² the scandal was blown up by the local media and it took a heavy toll on the electoral performance of 'Russian' parties. Support for them dwindled by the time of the 2003 parliamentary elections compared to 1999. The Estonian United People's Party won 2.2% of the vote (a decrease by a factor of 3) and the Russian Party in Estonia, which was another political force representing ethnic non-Estonians, won only 0.2% (Table 12).

Table 12.
The performance of ‘Russian’ political parties in parliamentary elections

	‘Russian’ parties	% of the vote	Seats in the parliament (out of 101)
1992	Took no part	–	–
1995	“Our Home is Estonia” (the alliance of the Estonian United People’s Party and the Russian Party in Estonia)	5.9	6
1999	The Estonian United People’s Party	6.1	6
	The Russian Party in Estonia	2.0	0
2003	The Estonian United People’s Party	2.2	0
	The Russian Party in Estonia	0.2	0
2007	The Constitutional Party*	1.0	0
	The Russian Party in Estonia	0.2	0

Source: *Estonian Electoral Commission*.

Note: * – the Estonian United People’s Party became the Constitutional Party in 2006

When it transpired during the 2003 elections that the existing ‘Russian’ parties had lost their former electoral support, political activists decided to agree on ‘a single Russian candidate’ in the 2004 European Parliament elections to avoid internal competition. The role was assigned to Georgi Bõstrov who was a member of the Board of the Estonian United People’s Party and mayor of the city of Maardu. His programme was based on social-democratic values. In contrast to the majority of Estonian politicians and officials, Bõstrov favoured greater centralisation in the EU and advocated granting Russian the status of an official language of the EU.

In March 2004, when the agreement on the single candidate had already been reached, the Estonian media reported that police had opened criminal proceedings against Bõstrov because he allegedly sent someone else to take the Estonian language test under his name (passing the test was a prerequisite for occupying a position of a public official). Interestingly the alleged offence

was perpetrated much earlier, on September 5, 2003.¹⁵³ In late May, 2004 the Language Inspectorate officially warned Bõstrov’s headquarters over submitting advertising materials in ‘a foreign language’ by mail and placing bilingual posters in streets in breach of the regulations.¹⁵⁴ The problems were that the mailed materials were in Russian only and the text in Russian in posters was placed above that in Estonian.

Bõstrov garnered 2.7% of the vote in the elections and emerged as the most successful independent and the most successful non-Estonian candidate.¹⁵⁵ He managed to win roughly the same percentage of the vote as two ‘Russian’ party-based lists in the previous parliamentary elections (roughly 15 – 17% of the vote by ethnic non-Estonians).¹⁵⁶ Nevertheless, all of the above was not enough to win a seat.

The last local elections (in cities and rural municipalities) were held in 2005. Only citizens of Estonia and the EU had both the right to vote in them or to stand as candidates. The participation of third country nationals including stateless was limited to the right to vote if they were holders of a permanent residence permit and had lived in the respective municipalities for at least 5 years¹⁵⁷ (the latter requirement was abolished in 2006¹⁵⁸). Thus, most non-citizens could vote but could not be candidates. The election results in the areas of compact minority residence such as Tallinn and major cities of the Ida-Viru county in the North-Eastern part of Estonia (Narva, Sillamäe, Kohtla-Järve) merit close examination. According to the 2000 census, ethnic non-Estonians made up 46%, 95%, 96%, and 82% of the populations of the above cities respectively.¹⁵⁹

It should be noted that the recent years have seen a much lower parliament electoral activity in the predominantly non-Estonian Ida-Viru county than the average across the republic, but not in the case of local elections. Moreover, voters were more active during the local elections in Ida-Viru county in 1993 and 1996 than on the average in Estonia (Table 13).

Table 13.**Electoral activity, % of the number of voters for various regions**

	Ida-Viru county	Estonia
Parliamentary elections		
1992	71.11	67.84
1995	67.19	69.06
1999	57.88	57.43
2003	52.27	58.24
2007	52.99	61.91
Local elections		
1993	65.9	52.6
1996	67.8	52.5
1999	48.2	49.8
2002	50.8	52.5
2005	50.4	47.0

Source: Estonian National Electoral Committee

The elections in Tallinn and the cities in the North-Eastern part of Estonia were won by the Centre Party of Estonia which touted its liberal approach to minorities. Though it could never be credited having had a consistently pro-minority orientation, its leader Edgar Savisaar remains one of the most popular politicians in Estonia largely thanks to the local 'Russian' electorate. He ran in the 2005 and 2002 elections in the Tallinn's predominantly non-Estonian Lasnamäe district. In 2005 Savisaar alone garnered 12% of the vote in Tallinn (9% in 2002).

The success of the Centre Party in country's North-Eastern part, where the support for the party grew from year to year, was indeed impressive. It won 34% in Narva in 1999, 51% in 2002, and 59% in 2005. After the last two elections, the Centre Party won a majority of seats on the town council. The support for Centrists in Sillamäe in 2005 was also wider than in 2002 and reached 49% of the vote or 57% of the seats in the local council. In 2005 in Kohtla-Järve, the Centrists joined the Usaldus alliance which won over 70% of the seats in the local council. Other major 'Estonian' parties also attempted to strengthen their positions in the ranks of the 'Russian' voters, but their efforts met with limited success. The Centre Party even took steps to secure the support

of the minority electorate which – in the Estonian context – entailed serious political risks. For example, in 2004 it signed a cooperation agreement with Russia's pro-presidential United Russia party and this deal antagonised other political forces in Estonia.

The 2005 elections revealed the deepening crisis of the 'Russian' political forces in Estonia. Whereas in 1999 three 'Russian' lists in Tallinn garnered a third of the vote and in 2002 two 'Russian' lists won over 9%, in 2005 the result was below 5% for two 'Russian' lists. The Estonian United People's Party had 3 seats in the former Tallinn city council (5%), but no 'Russian' parties were represented in the one elected in 2005. Not only the support for 'Russian' lists on the whole but also the numbers of votes cast for the best-known representatives of pro-minority forces shrank by the 2005 elections.

In Narva, the local branch of the Russian Party in Estonia took part in the elections in the alliance Linnakodanik and won 5.4% of the vote and 1 seat (3%). Prior to the elections, investigations were opened against the Party's deputy chairperson, Gennadi Afanassjev, for distributing leaflets in which he criticised his political opponents for supporting the Persons Repressed by Occupying Powers Act. The leaflet showed a character looking like Adolf Hitler who pointed to the portraits of the Centre Party leaders saying: "Remember these faces. They will accomplish what we failed to". Charges were pressed by the Security Police for inciting hatred (Article 151(2) of the Penal Code). On September 9, 2005 the Narva branch of the Russian Party publicly accused the Security Police of exerting pressure on the candidates from its alliance.¹⁶⁰

The efforts of a 'Russian' party led by Georgi Böstrov in Maardu, which is not far from Tallinn, can be regarded as a success story. According to the 2000 census, ethnic non-Estonians made up 80% of the population of Maardu. The Estonian United People's Party won 57% of the vote and got 16 seats (76%) in it. The Centre Party won only 14% of seats, and the People's Union 10%. As the example of Maardu shows, there are no definite reasons to conclude that 'Russian' parties are systematically ineffective.

In 2006, the Estonian United People's Party became the Constitutional Party. Over the past years the Security Police has been branding this party as a radical or extremist force with 'ties' to the Russian government.¹⁶¹

Andrei Zarenkov, the party's leader in 2006-2007, used to be active in the Russian civic organisations in Estonia and in the local anti-fascist movement. In 2008, it was decided to establish the Estonian United Left Party on the basis of the Constitutional Party and the Estonian Left Party. One of the reasons which brought the merger about was the outcome of the 2007 elections, in which the Centre Party managed to attract a major percentage of the electorate of the 'Russian' parties. The Constitutional Party won only 1.0% (2.2% in 2003).

b). Public Life

A 2007 poll showed that Russian-speakers were generally less willing to join civic movements than Estonians (20% v. 35%).¹⁶²

Russian-speakers created parallel quasi-representative bodies in the early 1990s to compensate for their lack of representation in the parliament. One of these bodies, the Representative Assembly of the Non-Estonian Population, was officially recognised as a partner for dialogue with the administration. A third of the seats in the Presidential Roundtable on National Minorities were assigned to it.

The creation of the Presidential Roundtable in 1993 was a reaction to the crisis in the Ida-Viru county where the Narva and Sillamäe municipal authorities decided to hold a referendum on autonomy. The conflict threatened to evolve along the lines of the Transdnistria scenario in Moldova. To a large extent, the conflict was sparked by the parliamentary debates on the Aliens Act, which included a 'legalisation' requirement for former Soviet citizens. The leaders of Ida-Viru county were barred from the coming local elections in 1993 on the basis that they did not have Estonian citizenship. The conflict was resolved at the Roundtable by the Ida-Viru leaders and the representatives of embassies and international organisations (the OSCE played an important part in the process). For years the Roundtable remained the main forum for dialogue between the Estonian administration and popular non-Estonian leaders.¹⁶³ In the recent years, however, the Presidential Roundtable stopped playing its role and has not yet convened under the current presidency.

Currently so-called national culture societies are very active. They receive some support from public funds (see detailed information in Estonian

official reports). The administration invariably attempts to use such cultural societies to generate the public support for its minority politics.

The Estonian Chamber of Representatives of National Minorities was created in 2007. Initially its position on the official ethnic politics – especially the Language Act – was critical. The Chamber works actively with the Legal Information Centre for Human Rights which circulates reports and other publications analysing Estonian official ethnic politics. The Security Police has been trying for several years to undermine the reputation of the Centre by publishing distorted or even deliberately untrue information about it in its yearbooks.¹⁶⁴ Since 2004, the Legal Information Centre for Human Rights is the national focal point of the RAXEN network of the European Union Agency for Fundamental Rights.¹⁶⁵ As such, it monitors racism, xenophobia and anti-Semitism in line with the agency's instructions. Besides, since 2004 the Centre has been functioning as a bureau of the ENAR-Estonia. The European Network Against Racism (ENAR) is an EU-wide network of more than 600 organisations working to combat racism in all the EU member states. In 2008 the Centre also became a member of the European Association for the Defence of Human Rights (AEDH).

Ingrian-Finnish and Swedish national cultural autonomies were created in Estonia in 2004 and 2007.

The skinhead movement which emerged in Estonia in the late 1990s showed little interest in political activity and was too small in numbers to exert any considerable political influence. Known attacks by the skinheads against individuals belonging to visible minorities in Estonia have not led to fatalities or serious bodily harm.

A scandal erupted in 2006 when the Dutch Ambassador, Hans Glaubitz, left Estonia because his male partner, a black Cuban, had been the victim of homophobia and racism a number of times.¹⁶⁶

Skinheads and their like should not be confused with local marginal revanchist movements such as the Central Union of Estonian Nationalists which won less than 1% of the vote in 1995 and which has subsequently ceased to exist. Its leader, Tiit Madisson, was sentenced in 1996 for plotting to overthrow the government. Released from jail thanks to an amnesty, he continued his political activities independently.¹⁶⁷ Madisson was the instigator of the 'monuments' war' – the spontaneous

or carefully planned attacks on monuments to Soviet soldiers typically sited at World War II graves which began in 2004. The ‘war of the monuments’ had serious public repercussions in Estonia both among the Estonian and Russian-speaking populations.

The ‘monuments’ war’ was triggered by the Estonian government’s decision to remove a monument built on Madisson’s initiative in Lihula. It consisted of a bronze bas-relief depicting an SS soldier with a machine gun and a dedication tablet reading: “To Estonian men who fought in 1940 – 1945 against Bolshevism and for the restoration of Estonian independence”. In 2005 – 2006, a conflict over a monument to Soviet soldiers in Tallinn’s Tõnismägi Square ceased being an issue of interest to marginal radicals only. Regretfully right-win Estonian political parties started to misuse the issue for their own purposes. Prime Minister Andrus Ansip made statements against the monument which helped to boost the rating of his party. In April 2007, the administration’s decision to relocate the monument met with extremely serious opposition among minorities and led to mass riots in Tallinn and to a deterioration of the inter-ethnic climate in Estonia.¹⁶⁸

The Estonian administration tightened its position on NGOs run by ethnic non-Estonians’ following the April events. Their funding was the first to be affected. For example the Siin association which is one of Estonia’s largest organisations of Russian-speaking young people lost a grant from the Ministry of Education and Research in 2007. The pretext was that an ordinary member of the organisation was charged with planning the mass riots in April 2007 and with having ‘ties’ with the Russian pro-government movement Nashi. The withdrawal of the grant was successfully contested in court but the grant was withdrawn again shortly, now because a ministry’s investigation was declared to have revealed shortcomings in the organisation’s paperwork.¹⁶⁹

In 2006 – 2008 members of Night Watch, an organisation formed in 2006 to protect the monument to Soviet soldiers in Tallinn, said they were harassed by the authorities. The government regards the movement as radical if not extremist. Human rights activist Sergei Seredenko claimed in the spring of 2008, on the basis of materials at his disposal, that “the tendency to persecute the Night Watch emerged immediately upon its creation but recently acquired new features. In

addition to the already traditional surveillance, phone tapping, and e-mail interception, which were passive forms of harassment, there emerged active forms of it too”.¹⁷⁰

In 2008, the leaders of the Night Watch and other individuals were charged with organising the mass riots in April 2007 and put on trial. When it learned about the terms of the indictment, the international human rights organisation ARTICLE 19 called on the Estonian court to either terminate the proceedings or acquit those accused.¹⁷¹ The county court acquitted them on January 5, 2009, concluding that the evidence proved only one fact – that mass riots did take place in the downtown Tallinn on April 26 – 28, 2007.¹⁷² The prosecution’s appeal was dismissed by the district court.

2.2. Freedom of Speech, Freedom of Information, Freedom of Assembly

a). Prosecution for Inciting Hatred

In the context of the freedom of speech and religion the theme of greatest interest is the administration’s implementation of Article 151 of the Penal Code which deals with incitement of hatred and violence (and discrimination since 2006) based on ethnic origin, race, language, religion and so on.

In April 2005, the police opened an investigation when anti-Russian graffiti were painted on the walls of an elevator lobby of an apartment block in Tallinn (Article 151 of the Penal Code).¹⁷³ The perpetrators were never found.

On 9 May 2005, an investigation based on the same Article was opened against the deputy chairperson of the Russian Party in Estonia, Gennadi Afanassjev, for printing and distributing leaflets against the leaders of the Centre Party. From the point of view of the Security Police, the problem stemmed not from the text but from the picture in the leaflet (as discussed above). The premises of Afanassjev and another Russian Party leader were searched and Afanassjev was obliged not to leave the district of his residence. Later the investigation was closed on for technical reasons.¹⁷⁴

Afanassjev's contacts with the leaders of minority parties and organisations including the ethnic Russian MEP for Latvia, Tatjana Ždanoka (Tatiana Zhdanok), are no secret in Estonia. Ždanoka told the Estonian media in October 2005 that she could not organise a roundtable with her political allies in Narva because 14 companies in a row refused to rent out accommodations for the purpose, though initially their consent was secured.¹⁷⁵ Ždanoka was mentioned in a negative context in the annual Security Police report in 2005.¹⁷⁶

In January 2005, a court in Tallinn sentenced an Estonian-speaking individual with an ethnic Russian name to an 8,000 kroons (511 euros) fine for sending SMS-messages with hostile statements concerning Estonians, minorities, and the relations between Estonia and NATO to the SMS-chat of the Starman TV channel.¹⁷⁷ On August 5, 2005 the Tallinn city court sentenced an author of internet comments insulting the blacks and Jews to a 3,000 kroons (192 euros) fine. One of the statements was "Send Jews to the furnaces!" ("Juudid ahju!").¹⁷⁸

On April 10, 2006 the Supreme Court acquitted an individual charged with inciting to hatred (Article 151(2) of the Penal Code). In 1995 – 1998 the son of a well-known Estonian poet, referred to as K., published a paper on the internet styled as an appeal of militant Estonian pagans defeated during the German colonisation in the 13th century. The material included calls for violence against Christians, Jews and democrats. K. was found guilty by a county and district court and sentenced to a large fine. His defence counsel said that a normal individual could not possibly perceive the text as an actual call for action and claimed the investigation was unable to analyse the text in the context of all the materials of the website on which it had been published. The arguments were to a great extent accepted by the Supreme Court and hence K. was acquitted. However, three of the six judges presented dissenting opinions.¹⁷⁹

In June 2006, the Parliament passed amendments¹⁸⁰ to the Penal Code which were supposed to make it easier for law enforcement agencies to investigate crimes in the internet. Article 151 dealing with incitement to hatred on various grounds was changed. It should be regarded as a positive change that the new version of the Article introduced the responsibility of legal entities. Calls for discrimination were also added to the list of punishable offences.

It should, however, be regarded as a negative change that the applicability of the Article 151 was limited to cases where the illegal activities in question resulted at least in danger to the life, health or property of a person. As a result, the Penal Code can no longer operate in investigations into hate speech in the media unless serious consequences have ensued. An explanatory note accompanying the corresponding draft showed that it was one of the original purposes of the amendment to exclude cases where an individual 'merely' expressed his or her opinion publicly.¹⁸¹

Over the recent years, most of the investigations related to Article 151 were opened in connection with hate speech in the internet (see the examples above). The amendments affected the application of the Article considerably and some previous investigations ended up being closed. So in 2004 – 2007 the Police Board opened six proceedings in connection with Article 151(1 in 2004 and 5 in 2005). No new cases were opened after the tailoring of the article in 2006.¹⁸² The Security Police opened two cases in 2005 and one in 2006, but none in 2007.¹⁸³

b). Disagreements over World War II

The possibility of recognising Holocaust denial as a criminal offence has been a theme of public discussions in Estonia, but the idea has been met with little understanding among the population. Politicians also refused to recognise publicly wearing Nazi and Soviet symbols as a criminal offence.

In the spring of 2006, the ultra-right nationalist Tiit Madisson published a book with a revealing title "The Holocaust: the Worst Zionist Lie of the 20th Century".¹⁸⁴ The book was a bestseller in Estonia's largest bookstore network Rahva Raamat on April 3-9, 2006. Negationist theories were also extensively presented in Lembo Tanning's "European Problem... World War II"¹⁸⁵, a book published in March 2006.

The following incident attracted public attention in 2006: on January 27, which is the official day for commemorating the victims of the Holocaust and other crimes against humanity in Estonia, unidentified individuals lit numerous candles at a German military cemetery in Pärnu where many World War I and World War II soldiers are buried.¹⁸⁶

On 21 December 2006, the Russian-language newspaper Pravo i Pravda published an article entitled “Ansip, Velliste and the New Nazi”, which was illustrated by a collage showing Andrus Ansip, Mart Laar and a soldier wearing an SS uniform. The two politicians were active proponents of removing the Soviet World War II memorial from Tõnismägi Square in Tallinn. For a long time, the newspaper officially belonged to the Centre Party, but when a scandal erupted as a result of the publication, the Centrists said they had no direct links with the paper and that the party’s symbols had been used without permission. Nevertheless, the editorial board immediately decided to close the newspaper including its internet site. Interestingly, the police and the Security Police discerned no incitement to hatred in the incident.¹⁸⁷

Controversy persists over the support provided by the authorities to Estonian World War II veterans who fought on the German side. The official approach is that such individuals should be regarded as ‘freedom fighters’. In July 2006, the Prime Minister Ansip said at a convention of World War veterans who had served in the German army or fought in the ranks of the ‘forest brothers’: “Your fight is a heroic deed that must be highly admired now and in the future. Although Estonia’s independent statehood was not restored at the time, your fight played a large role in the ability of the Estonian nation to keep up [its] struggle for freedom throughout the Soviet occupation. As you have said among yourselves: we lost the battle, but we won the war in the end!”¹⁸⁸

On July 4, 2007 the Eesti Express weekly published an account of Minister of Justice Rein Lang’s celebration of his 50th birthday.¹⁸⁹ His guests were invited to a beer restaurant in Tartu, the recommended dress being that in the style of German pubs of the 1930s. The party featured a performance of the play Adolf staged by the Vanemuine Theatre in the autumn of 2006 (based on Hitler’s monologue prior to his suicide). A huge flag with a swastika was used as a decoration. The publication attracted a lot of public attention and was widely commented on by Estonian politicians. In particular it was emphasised that the play Adolf is anti-fascist.

*c). The Events of April 2007*¹⁹⁰

On May 9, 2006 the Estonian administration sanctioned two events near the monument to Soviet soldiers who perished in World

War II, located in Tõnismägi Square in Tallinn: the traditional laying of wreaths to the monument by veterans’ organisations and a picket by its opponents. The picket, which consisted of several people with an Estonian flag and posters saying “Estonian people, do not forget: the soldier occupied our soil and deported our nation!”, stood at the edge of the crowded square for several minutes. The pickets were then pushed to the road and taken away by a police bus. The Estonian-language media coverage of the incident was fairly biased. For example, there were claims (not confirmed by the police) that a ‘Russian mob’ defiled the Estonian flag. A number of rallies were held near the monument during the next several days, both by supporters and opponents of the relocation or destruction of the memorial. Activists for its defence formed the Night Watch organisation. In June 2006 the administration placed a fence around the memorial and dispatched a police patrol to the site. Access to the monument was reopened early in October 2006.

In early 2007 a Protection of War Graves Act was passed by the parliament as the first step towards moving the memorial – widely known as the Bronze Soldier – from Tõnismägi Square. The Act allows relocating military graves and related memorials without the consent of local authorities. A police operation was carried out on the night of 26 April 2007 during which defenders of the monument were expelled from Tõnismägi Square. A tent was built above the monument and the burial site. By the evening a large group of predominantly Russian-speaking people gathered at the square to express their disagreement with the measures taken by the authorities. At some point, the police started dispersing the meeting. It acted harshly and used special equipment against the protesters. They were forced to retreat to nearby streets where a number of acts of vandalism were perpetrated. Early in the morning of 27 April 2007 the monument was moved from Tõnismägi Square in accord with the decision of the Government of the Republic of Estonia. In a few days it was installed at the Tallinn military cemetery.

Riots resumed in the evening of 27 April 2007 in Tallinn and a number of predominantly Russian towns in the North-Eastern part of Estonia. In Tallinn the police isolated entire city blocks and detained large numbers of individuals in streets, mostly Russian-speakers. Detentions continued on April 28. No official bans on visiting the centre of Tallinn were imposed,

and various public attractions in the area remained open. However on 27 April 2007 the media aired recommendations “to stay at home” (they were also sent en masse to e-mail addresses and cell phones).

People were apprehended in a harsh manner. The police used clubs, rubber bullets and plastic strips instead of handcuffs. People were forced to lie on the ground face down. Individuals who contacted Estonian human rights groups reported severe detention conditions in the ‘filtration camps’: people had to sit for hours on concrete floor in uncomfortable positions and with their hands tied. Beatings – in some cases unprovoked – of the detained by guards also took place.

In response to an information request submitted by the people who had been held in the ‘filtration camps’, the police justified their acts by saying that these people had been detained in the course of an operation authorised in accord with the Police Act.¹⁹¹ But the provisions of the Police Act which they quoted do not give them these rights. Thus the administration failed to clarify what was the legal basis for the mass detentions. The Police Act was amended in 2008¹⁹² to legalise the procedures which had already been applied in hundreds of cases in April 2007.

Already on the eve of the unrest, a major Estonian paper reported what it described as ‘suspicious’ meetings of ‘extremist’ leaders of the Night Watch and local Russian politicians with Russian diplomats in city cafes and parks.¹⁹³ The Estonian Foreign Minister, Urmas Paet, specifically drew the attention of foreign journalists to the allegations. The Russian Embassy said that on 25 April 2007, the Russian Ambassador, Nikolay Uspensky had visited the Estonian Ministry of Foreign Affairs to discuss the issue. The Ambassador vigorously rejected the allegations and said that he found the explanations of the Chancellor of the Estonian Ministry of Foreign Affairs ‘insufficient’. He said that Russian diplomats meet representatives of the Russian community in Estonia on a regular basis and that Estonian diplomats in Moscow also use the opportunity for similar meetings.¹⁹⁴ The 2007 Security Police Yearbook stated that the mentioned Russian diplomats were “clean” and had “no special preparation in manipulations”.¹⁹⁵ The same report said that the Security Police “did not ascertain directing the violent events from the side of Russian special services”. Nevertheless, the report claimed that the riots were “provoked from Russia”.¹⁹⁶

All street activities were banned in Tallinn on April 30 – May 11, 2007 as a result of the crisis caused by the relocation of the monument (as ordered by the Police Prefect). Under the circumstances, it became difficult to openly express discontent with the government’s steps. In late April – early May, a part of the Russian-speaking population staged acts of civilian insubordination by driving slowly with sound signals from 12:00 p.m. to 12:20 p.m. The police interpreted the activity as traffic violations and fined the drivers (the fines could reach 3,000 kroons –190 euros) and publicly thanked those who informed it about this type of activity.

An overhaul of the staffs of editorial boards of a number of Russian-language media took place following the April events. For example, the Russian-language Delfi internet portal’s chief and the editor-in-chief of the Russian version of the Linnaleht newspaper were replaced. There is information that the changes were directly linked to the April events.

A poll conducted in June 2007 showed that a considerable percentage of ethnic non-Estonian respondents (in contrast to Estonians) believed that “to a very significant extent” the April crisis bred “the suppression of the freedom of opinion and limitations of democracy” (46%) and “the escalation of police intervention in all spheres of activity” (30%).¹⁹⁷

d). The Media

According to the Language Act (Article 25) when broadcasting (including transmission by television stations or cable networks) audiovisual works (including programmes and advertisements), ‘foreign language’ text shall be accompanied by an adequate translation into Estonian. A translation into Estonian is not required for programmes which are immediately retransmitted, or for language learning programmes, or for the newsreader’s text of originally produced ‘foreign language’ news programmes and of originally produced live ‘foreign language’ programmes. Thus translation is mandatory when a pre-recorded programme is broadcasted. Furthermore, the volume of foreign language news programmes and live foreign language programmes without translations into Estonian shall not exceed 10% of the volume of weekly original production.

In late 2004 – early 2005 the requirement was turned against the Orsent cable channel which is directed towards the Russian-language audience. In September 2004, the Language Inspectorate issued a warning to the channel because monitoring of its programmes had shown violations of Article 25 of the Language Act. It said they had to be eliminated within one month. In December 2004, the Starman cable network, which owned the frequency used by Orsent, cut it off with a reference to the article of the contract requiring compliance with the Estonian legislation. After the situation was raised in the Russian media, Orsent was offered another frequency by Starman in the early 2005.¹⁹⁸ The channel's management regarded the Language Inspectorate's decision as politically motivated.¹⁹⁹

In the early 2008, Estonian prisons were cut off from leading TV channels from Russia. The Ministry of Justice admitted that it had drawn the attention of prison administrations to Article 6 of the Imprisonment Act which lists the objectives of imprisonment (though no official list of 'inappropriate' channels was ever compiled). As the Ministry said, watching channels with content not suited to the objectives of imprisonment objectives – those justifying crimes committed in Estonia or advocating hatred, cruelty, and violence – should be avoided in gaols.²⁰⁰ The changes coincided in time with the opening of the trial of four individuals the administration deemed guilty of organising riots in April 2007 (see Section 2.1.b). In contrast to their Estonian peers, Russian journalists covered the trial from a critical perspective.

A poll conducted in 2007 showed that most ethnic Estonians did not trust Russian Federation and local Russian-language media except for the programmes of Estonian public radio in Russian. It should be noted in this context that most Estonians do not listen to these programmes. As for ethnic non-Estonians, the level of trust in the Russian media – except for newspapers from Russia – was found to be fairly high.²⁰¹

After the April events, Vice Speaker and former Foreign Minister, Kristiina Ojuland, expressed the idea of limiting broadcasts of Russian satellite TV in Estonia. She attempted to drum up the support of certain minority organisations for the purpose. In June 2007, the proposal was supported by one out of three ethnic Estonians, and by one out of seven Russian-speakers.²⁰²

A Tallinn university professor and an expert at the International University Audentes Human Rights Centre, Evhen Tsybulenko, also expressed support for the idea of limiting Russian TV in Estonia. This proposal was commented on vigorously by users of Russian-language news portals, and some of them made derogatory statements about Tsybulenko's Ukrainian ethnic origin. In response, Tsybulenko asked the police to prosecute the authors of the statements for inciting hatred on the basis of ethnicity. He said in a media interview that it was time to put an end to total permissiveness in the internet.²⁰³ His request did not translate into any proceedings, presumably because – according to the new version of the Penal Code – no offence had been perpetrated. (See the considerations regarding the changes in Article 151 of the Penal Code presented above.)

e). The Language of Public Information

For a long time public signs, signposts, advertisements and announcements in Estonia had to be in Estonian only (exceptions were mostly allowed in the interests of foreign tourists). A new version of Article 23(2) of the Language Act entered into force in March 2007.²⁰⁴ It allows adding messages in 'regional versions' of the Estonian and 'foreign languages', requiring that the text in Estonian occupy the first place and be no less visible than the addition. Minority languages in Estonia are regarded as foreign (Article 2 of the Act).

2.3. Freedom of Religion

Article 40 of the Estonian Constitution states that there is no state church in the country. By default, the Lutheran faith is the country's basic religion. A special joint commission for promoting cooperation between the Estonian government and the Estonian Evangelical Lutheran Church was established in 1995.²⁰⁵ Nevertheless the number of Lutherans is currently estimated at 180,000, which is less than in two officially registered Orthodox churches (Table 14).

Table 14.

Numbers of members of various churches according to their own data

Name	1995	2000	2005	2007
The Estonian Evangelical Lutheran Church / Eesti Evangeelne Luterlik Kirik	172,000	177,233	180,000	180,000
The Estonian Apostolic Orthodox Church / Eesti Apostlik-Õigeusu Kirik	10,000	18,000	25,000	about 25,000
The Estonian Orthodox Church of Moscow Patriarchate / Moskva Patriarhaadi Eesti Õigeusu Kirik	-	-	170,000 – 200,000	about 170,000
The Union of Free Evangelical and Baptist Churches of Estonia / Eesti Evangeeliumi Kristlaste ja Baptistide Koguduste Liit	about 6,500	about 6,092	5,952	5,974
The Estonian Conference of Seventh-Day Adventists / Advent Koguduste Eesti Liit	1,997	1,868	1,723	1,711
The United Methodist Church in Estonia / Eesti Metodisti Kirik	1,842	1,880	1,800	1,737
The Estonian Christian Pentecostal Church / Eesti Kristlik Nelipühi Kirik	about 2,500	about 3,500	4,500	4,500
The Charismatic Episcopal Church of Estonia / Eesti Karismaatiline Episkopaalkirik	-	-	300	300
The Roman-Catholic Church in Estonia / Rooma-Katoliku Kirik	about 3,000	3,500	5,745	6,000
The Union of Congregations of Jehovah's Witnesses in Estonia / Eesti Jehoova Tunnistajate Koguduste Liit	2,600	3,846	-	4,248
The Estonian Islam Congregation / Eesti Islami Kogudus	over 10,000	1,467	about 1,400	about 1,400
The House of Taara and Mother Earth People of Maavald / Taarausuliste ja Maausuliste Maavalla Koda	287	about 200	-	-
The Jewish congregation in Estonia / Eesti Juudiusu Kogudus	2,100	80 families	-	about 2,500
The Union of Estonian Old Believer Congregations / Eesti Vanausuliste Koguduste Liit	about 10,000	5,000	-	about 15,000
The Congregation of the Church of Jesus Christ of Latter-Day Saints / Viimse Aja Pühade Jeesuse Kristuse Kiriku Eesti Kogudus (mormonid)	about 300	482	-	803

The Krishna Congregation / Krishna Teadvuse Eesti Kogudus	50	100	-	about 150
The Baha'i Community / Eesti Baha'i Koguduste Liit	85	about 150	-	142

Source: Ministry of the Interior²⁰⁶

a). Christian Orthodox

Though religion is not a major in individual contacts between ethnic Estonians and non-Estonians, the status of the Orthodox Church was a highly politicised issue in the early 1990s. The Estonian government attempted to separate Estonian Orthodox believers from the Moscow Patriarchate, obviously thanks to national security considerations.

After 1991, the local Orthodox Church which belonged to the Moscow Patriarchate was not recognised as the legal successor to the church that existed before World War II. Instead, this status was granted to a group which fled to the West during the war and which was under the authority of the Patriarch in Constantinople. It was allowed to register itself under the name of the pre-war church organisation.²⁰⁷ The legally dubious procedure (the organisation had no episcopal structure as required by law) made it possible for the group to get control over practically all the property which belonged, and de facto continues to belong, to the parishes linked to Moscow. Almost all Orthodox parishes with ethnic Estonian believers switched to Constantinople (in contrast to the 'ethnically Russian' parishes).

After a protracted conflict, the government decided to maintain the status quo. Constantinople transferred the buildings of the 'Moscow' parishes to the state for free, and now the parishes will be renting them from the state for token fees. The Estonian Orthodox Church of Moscow Patriarchate was registered only in 2002.²⁰⁸ The dispute over rights to property continues.

The head of the Estonian Orthodox Church of the Moscow Patriarchate said that he had never received any complaints about discrimination based on religion (apart from the church registration problem).²⁰⁹

There were public discussions concerning the possibility of making Orthodox Easter and Orthodox Christmas official holidays but these never translated into any practical initiatives.

b). Muslim Minority

Estonia is home to a very small Muslim community mainly comprising ethnic Tatars and Azeris (Azerbaijanis). The lifestyle of most Muslims in Estonia – as that of most Christians – is quite secular. The share of religious people among the traditionally Muslim ethnic groups is roughly the same as among the rest of the ethnic non-Estonian population.²¹⁰

A potential inflow of ‘fundamentalist’ Muslims into the country has been regarded with concern both by the government and by experts. The concern is largely shared by the leaders of the Tatar and Azeri communities. Attempts to import ‘radical Islam’ into Estonia were made in the mid-1990s but met with strong opposition from the local Muslim communities. In interviews, newcomers from the Muslim world said that they felt they were being constantly watched by the Estonian security services.²¹¹

At present there are no mosques in Estonia but there do exist Muslim houses of prayer. A plan to build one – and possibly to open a Muslim Centre – was aired in 2000. Though the plan was welcomed by the administration and by the Estonian Union of Churches (an alliance of Christian confessions), the marginal Estonian Christian People’s Party managed to collect 2,000 signatures against the construction of a mosque in Tallinn. The main argument of the opponents of the plan was that the construction of a mosque would stimulate the migration of Muslims to Estonia. The mosque was never built, but this was due to a lack of funds rather than to the protests.

Three government regulations concerning the process of applying for passports and other IDs, and the procedures of issuing residence and work permits, were updated in April 2005. Starting 1 May 2005 applicants were allowed – as an exception from the general rule – to submit applications with photographs with their heads covered.²¹² A 2006 *Eurobarometer* study showed that 50% of Estonian respondents (citizens of Estonia and other EU countries)

considered it acceptable when visible religious symbols were worn at the workplace.²¹³

On April 10, 2006 *Keskus*, a small Estonian paper, reprinted the so-called Dutch cartoons depicting the prophet Muhammad in a manner regarded as offensive by Muslims, but no incidents related to the publication were reported.

c). Other Religious Groups

Adepts of the Taara (Earth) pagan cult – a total of about 1,000 – have complained about being harassed by the administration. They had difficulty registering their organisation. Eventually the corresponding provisions of the Churches and Congregations Act were adjusted to allow the use of titles other than church, parish, and monastery in the process of registering religious organisations.²¹⁴

Several attempts made by the local ‘Satanist’ community to register have been unsuccessful.

2.4. Access to Justice

a). Problems Related to the Language Used by the Justice System

Article 5 of the Courts Act says that judicial proceedings in court must be conducted in Estonian while certain exceptions are possible. In practice the norms concerning the language of court proceedings can obstruct access to justice for a large group of Russian-speakers not fluent in Estonian.

Article 10(2) of the Code of Criminal Procedure says that the assistance of a translator or an interpreter must be ensured for the participants in any proceeding if the parties are not proficient in Estonian.

More questions arise in connection with the new Code of Civil Procedure. Its Article 34(1) allows the involvement of an interpreter or a translator at the request of a participant in the proceeding or at the court’s own initiative. However, if the court is not able to immediately involve an interpreter or translator, the court shall make a ruling whereby the participant in the proceeding needing the assistance of an interpreter or translator is required to find an interpreter, a translator

or a representative proficient in Estonian for himself or herself (Article 34(2)). Furthermore, failure to comply with the demand of the court does not prevent the court from adjudicating the matter. If the plaintiff fails to comply with the demand of the court, the court may refuse to hear the action. The same set of provisions serves as guidance for the administrative court, by virtue of Article 5 of the Code of Administrative Court Procedure. In practice, up to the present, courts have used translators for Russian-speakers.

Difficulties can be faced when complaints and lawsuits are filed, as generally they are not accepted if written in Russian. However, exceptions are often made for those who are imprisoned.

The Chancellor of Justice (ombudsman) has seen no violations of human rights in the rules governing the language of court proceedings. He validates his point of view by referring to the judges' discretion to accept or reject complaints and lawsuits written in languages other than Estonian depending on the specific circumstances of the case.²¹⁵

It is assumed that the poorest categories of the population can obtain assistance in writing complaints and lawsuits on the basis of the State Legal Aid Act. The Law passed in 2004 allows a petition to be submitted to a court in any language but the applicant could be made pay for translation. Article 12(5) was adjusted in 2005 and currently requests can be submitted to court only in Estonian.²¹⁶ Residents and citizens of the EU can also submit documents in English, but no exception was made for Russian which is the native language of almost a third of Estonia's population.

In January, 2008 G. submitted a request for state legal aid to Ida-Viru County Court (the population of the county is predominantly Russian-speaking). The court returned the request on the basis that it did not comply with the language requirements. G. contested the decision in court citing Article 11 of the Universal Declaration of Human Rights which guarantees the availability of all means of defence to the indicted. The case reached the Supreme Court which rejected the case because, under Estonian law, particular rulings of district courts cannot be appealed. Nevertheless, the Supreme Court stressed that G's petition was written in Russian contrary to the State Legal Aid Act. The district court rejected the petition on the basis of a literalistic interpretation of the law regardless of the human rights aspects of the situation. Thus,

*the appeal related to the language requirements in the context of state legal aid led to no results in Estonia.*²¹⁷

b). Complaints about Police Violence in April 2007

The attitude to complaints about police violence in the course of the April 2007 crisis deserve a particular examination, as this was the first time in the history of Estonia since the restoration of its independence that a large group of people in the country encountered a politically motivated denial of access to justice.

The UN Committee against Torture which reviewed Estonia's 4th periodic report at its 39th session in November 2007 expressed concern "at allegations of brutality and excessive use of force by law enforcement personnel, especially with regard to the disturbances that occurred in Tallinn in April 2007, well documented by a detailed compilation of complaints". The Committee noted that "[t]he State party should promptly, thoroughly and impartially investigate all acts of brutality and excessive use of force by law enforcement personnel and bring the perpetrators to justice".²¹⁸

According to the Public Prosecutor's office, some 50 complaints about excessive use of force by police were received. Though eight criminal investigations were initially opened,²¹⁹ all of them were closed subsequently either because there was no proof that a crime had occurred or because it was impossible to identify suspects. Scores of complaints were rejected using a standard set of arguments. Refusals to open investigations were typically based on the following presumptions:²²⁰

- the applicant was an offender and force / special equipment were legally used;
- the applicant was acting in bad faith when he or she complained of the personal injury;
- the use of force by the police always had good reasons;
- any actions committed by the police can be justified by referring to the special conditions in the country at the end of April 2007.

Attention should be paid to the fact that the government responded with no procedural activity whatsoever to dozens of complaints. Nine victims of police brutality have submitted complaints to the European Court of Human Rights.

PART III.

SPECIFIC ISSUES CONCERNING THE REALISATION OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

3.1. Education

3.1.1. Legislation

According to Article 37 of the Estonian Constitution, everyone has the right to education and everyone has the right to receive instruction in Estonian. The language of instruction in national minority educational institutions is to be chosen by the educational institution. The Constitution gives no definition of a national minority educational institution, but in practice Russian municipal and state schools are not regarded as such. The only exception is in fact made for a Jewish school in Tallinn where the language of instruction is Russian and a number of classes teach Jewish history, tradition, and culture.

There are no formal legal obstacles in the way of educating minorities, migrants, and refugees in Estonia. However, the speakers of Russian who are not fluent in Estonian can face certain problems in higher education, and Roma and recent immigrants, knowing neither Estonian nor Russian, in basic schools.

Currently education is provided in both Estonian and Russian free of charge in publicly funded preschools and schools. A small number of students are taught in English and Finnish.

The access to higher education in Russian is limited. The curriculum in all state and municipal general education publicly funded schools is the same regardless of the language of instruction. However, Estonian law gives no guarantee that educational opportunities in languages other than Estonian will continue to be available.

In September 2007, Estonia started switching to predominantly Estonian-language instruction in upper secondary schools (10 – 12 grades)

(2007 Reform). The reform is implemented on the basis of the corresponding provisions of the Basic Schools and Upper Secondary Schools Act. When it was passed in 1993, the initial plan was to switch to instruction in Estonian in upper secondary schools by 2000/2001. The law was amended in 1997²²¹ to shift the deadline to 2007/2008. The decision that the transition to the instruction in Estonian would be limited to 60% of the total instruction materialised in the form of a Basic Schools and Upper Secondary Schools Act amendment in 2000.²²² Two years later schools were allowed to request that the language switching be postponed.²²³

No public debates have been ignited in Estonia by the problems related to the wearing of religious symbols in schools. Article 30(1) of the Basic Schools and Upper Secondary Schools Act requires that students obey the school internal rules set by school teachers' councils which may also introduce dress codes. There is no information that the regulations echoed with any concerns in the country's small Muslim community.

Religion-related subjects are taught in Estonian schools in the framework of non-confessional optional programmes.

3.1.2. Preschool and School Education. The 2007 Reform

a). Preschools

Local authorities are responsible for preschools. Both Estonian and Russian preschools are open in the areas where there is a large concentration of Russian-speakers.

Lack of preschool capacities and long waiting-lists are a problem common to many Estonian towns. Russian-speaking parents gladly send their children to Estonian preschools where they can learn the state language in the process of communicating with their peers. In practice, however, non-Estonian families are disadvantaged placing their children in Estonian preschools, because of unannounced administrative barriers. However, in Paldiski the local authority openly set discriminatory rules about admitting children to the local Naerulind preschool. Article 2 of the Rules said that the preschool was open to Estonian-speaking children while others could be placed in it only if the preschool

had vacancies. In 2008 the situation in Paldiski came under the Ombudsman's scrutiny during which the local authority dropped the discriminatory regulation.²²⁴

b). Schools: Statistics

The number of students in Russian schools has been decreasing annually since the early 1990s. The tendency is attributed to both the overall decrease in the number of Russian-speaking children in Estonia (due to the migration of minorities from the country and the low birth rates among them) and to the reorientation of a part of the non-Estonian population towards education in Estonian. In the autumn of 1999, first-year students of Russian schools made up slightly over 20% of the total number across Estonia, while in 1990 the figure was 41% (28% and 37% in all grades).²²⁵ The tendency is known to persist.

Table 15.
The share of students taught in Russian in full-time schools of general education, %

Year	Estonia	Tallinn
1980	32.5	46.9
1990	37.0	54.2
1991	36.7	54.5
1992	34.9	53.2
1993	33.5	52.4
1994	33.1	51.1
1995	32.3	50.3
1996	31.2	48.9
1997	30.4	47.4
1998	29.3	46.0
1999	28.3	44.7
2000	27.2	43.2
2001	26.2	41.7
2002	25.1	40.5
2003	24.1	38.9
2004	23.1	37.2
2005	21.7	35.1
2006	20.4	33.7
2007	19.9	33.3

Source: Statistics Estonia²²⁶

In the 2006/2007 academic year, the distribution of the numbers of students over the languages of instruction was: Estonian 79.6%, Russian 20.3%, English and Finnish 0.1%. It should be noted that of all students who studied in Russian, 478 studied in the framework of the so-called late immersion in the language environment programme – a large share of the subjects were taught in Estonian.²²⁷

Table 16.
Numbers of students in full-time schools of general education depending on the language of instruction, academic year 2006/2007

Level	Estonian	Russian	English	Finnish	Total
Level 1: grades 1 – 3	28,860	7,252	19	4	36,135
Level 2: grades 4 – 6	32,284	7,545	39	2	39,870
Level 3: grades 7 – 9	41,860	10,007	25	2	51,894
Level 4: upper secondary school – grades 10 – 12	27,585	8,504	36	–	36,125
Total	130,589	33,308	119	8	164,024

Source: Estonian Education Information system 2007

According to the Ministry of Education and Research in the 2007/2008 academic year 6,887 students whose native language was other than Estonian studied in the full-time secondary schools of general education in classes of 'language immersion'.²²⁸

Judging by the results of mandatory final (state) tests, the academic performance among students of Estonian and other schools was roughly of the same level. Students from Estonian schools had somewhat higher grades in geography, foreign languages, and social studies (Table 17).

Table 17.
The average grades at final (state) tests (secondary schools) depending on the language of instruction, 2007

	Estonian		Russian	
	Value	Standard deviation	Value	Standard deviation
History	66.6	15.9	63.3	20.5
Biology	60.4	17.1	59.2	17.8
Geography	58.8	13.9	47.5	13.9
Physics	71.5	19.6	67.3	21.9
Chemistry	62.1	20.8	64.1	21.2
Mathematics	52.4	17.4	47.6	18.4
Native language	59.4	20.4	59.3	18.4
English	71.9	14.8	62.7	15.2
German	73.3	18.6	61.6	19.1
Social studies	61.8	12.9	50.1	14.2

Source: *The National Examinations and Qualifications Centre*²²⁹

The data supports the hypothesis that over the past several years a large share of Russian-speaking students in Tallinn either switched to Estonian programmes in upper secondary schools (the last *three* years of the school education) or disengaged from the (national) education system. For example, graduates of Russian basic schools (9th year) made up 50.3% of all graduates in Tallinn in 2002 and 42.0% in 2003. In 2005, students who studied in Russian made up 42.1% of upper secondary school graduates (39% in 2006) and 41.1% of vocational school graduates (39.4% in 2006).²³⁰

c). Small Minority Groups in the Education System

According to the 3rd report on Estonia of the European Commission Against Racism and Intolerance the Commission “received reports that in Valga and Tartu some Roma children were sent to schools for mentally handicapped children simply because they did not speak Estonian”.²³¹ No information of the same kind from other sources is available. It is nevertheless well known that only a small fraction of Roma children attend schools. In the 2005/2006 academic year there were only 36 students with Roma ‘home language’ in all Estonian

schools.²³² The number is very small considering that according to the 2000 census there were 542 Roma in Estonia²³³ (unofficial estimates are that the number is three times higher).

To accommodate the interests of students who do not study at school in the languages in which they communicate at home, Estonian schools provide optional programmes in native languages and cultures (as guaranteed by Article 9(3) of the Basic Schools and Upper Secondary Schools Act). An optional programme for Ukrainians is maintained in Sillamüe.

A class for the adaptation of children of recent migrants functioned in the Lilleküla secondary school in 2008.²³⁴

In late 2008 the Estonian education information system registered 16 so-called Sunday schools (private classes where minorities studied their language and culture).²³⁵

d). Language Immersion

According to the Estonian education information system, 17% of the students whose native language was other than Estonian went either to Estonian schools or to classes with the immersion in the language environment (with the instruction predominantly in Estonian) in the 2006/2007 academic year. Data from the same source shows that the same year 3,234 students were enrolled in full or partial language immersion programs.²³⁶

In Estonia, programmes of the above type can be joined already in preschool, in the first grade (early immersion), or in the sixth grade (late immersion). If the study begins in the first grade, all the educational material is typically presented in Estonian throughout the first year at school. In two years the share of subjects taught in Russian begins to increase and finally reaches 50%. In the case of late immersion a third of the instruction is in Estonian in the sixth grade and in the seventh and eighth grades it reaches 3/4 (a quarter are classes of native language and of foreign ones). In the ninth grade approximately 60% of the instruction is in Estonian.²³⁷

The following recommendation was issued in the Second Opinion on Estonia of the Framework Convention Advisory Committee (Article 149): “The authorities should ensure that the immersion models are

not unduly privileged in the funding decisions so as to ensure that the quality of teaching, as well as textbooks and facilities, in other educational models are comparable.” In practice the government generally leaves the choice as to whether or not to join the language immersion programmes to students, though the advantages of getting enrolled in them are actively advertised. School directors tend to attract the most capable students to the immersion classes in order to demonstrate high academic performance. Though the programmes are voluntary, the 2008 – 2013 Integration Strategy includes the ‘plan’ to increase the number of schools involved (to involve 3 – 5 new school and preschools annually).²³⁸ Currently there are language immersion classes in approximately 50% of Russian schools and a third of Russian preschools in Estonia.²³⁹

Active support of the language immersion classes by the central administration in small towns leads to the replacement of Russian classes by the immersion ones, making the students’ parents choose between the latter and Estonian schools. A situation of this type is witnessed in Kehra where those who wish to study in Russian now have to commute to Tallinn. The case drew the attention of the local Russian media.²⁴⁰

e). Russian School Teachers

For a long time there were almost no programmes of training teachers for Russian schools in Estonia. Typically the teachers in the Russian schools are people of senior age. According to the Ministry of Education and Research, as of 2000 1,573 of the 4,402 Russian school teachers were older than 50. 2,992 of them had degrees in pedagogy, and 2,514 – over 15 years of work experience. A 2002 study indicates that there are less than 10% ethnic Estonians among the teachers in Russian schools.²⁴¹

Teachers in Russian schools and preschools, both state and municipal, are frequently screened by the Language Inspectorate. The adequacy of the level of Estonian language requirements for teachers is widely questioned, especially since very few manage to pass the corresponding checks (for example, in 2007 the Inspectorate concluded that 97% of the checked teachers in the schools and preschools

monitored did not know Estonian well enough²⁴²). The monitoring and the expectation of language testing create a tense atmosphere in Russian schools which eventually tells on the quality of instruction.

In 2008 the Basic Schools and Upper Secondary Schools Act and the Vocational Educational Institutions Act were amended²⁴³ to stimulate the inflow of younger teachers into provincial schools. A specialist starting a teaching career in an educational institution outside Tallinn and Tartu can expect to get a start-up bonus. However one of the requirements when applying for such jobs is advanced level certificate of Estonian language proficiency, while only middle level proficiency was required from most Russian school teachers at the time the corresponding legislation was passed.

*The Legal Information Centre for Human Rights asked the Chancellor of Justice to verify whether the norms concerning the start-up bonus violated Article 12 of the Constitution which bans discrimination. The Chancellor did not agree that Russian teachers were being discriminated against. He said that in general, any language requirements for teachers are constitutional as Estonian is the state language. The Estonian language provisions reflect a constitutional value and the Chancellor believes that under certain circumstances they can limit the individual right not to be treated unequally (the non-discrimination principle is not absolute). The start-up bonus is not a human right but a benefit for which special requirements are established.*²⁴⁴

f). Multiculturalism in the School Curriculum

Currently the school curriculum does not reflect to a sufficient extent the multicultural character of Estonian society. The Ministry of Education and Research plans to focus on the problem when drawing up the new school curriculum (it will enter into force in 2010).²⁴⁵

On the whole, the basically natural orientation of the school curriculum towards Estonia translates into Estonian ethnocentrism. In 2002, the Open Society Institute stated that although the 2000 – 2008 integration programme was meant to promote the concept of Estonia as a multicultural society, this was only minimally achieved in the school curriculum.²⁴⁶ The Framework Convention Advisory Committee said

in its second opinion on Estonia that “despite some efforts, studies suggest that the multicultural elements in the curriculum of Estonian schools remain comparatively modest. Moreover, while the teaching of certain minority languages for majority pupils is available in a number of schools, studies show that the importance of studying minority languages is not widely appreciated amongst majority pupils”.²⁴⁷

3.1.3. The Public Opinion and the 2007 Reform

In the 2007/2008 academic year Russian upper secondary schools started to implement the long-planned switching to at least 60% instruction in Estonian. The transition ignited a controversy in the country and it remains a contentious issue.

From the outset, the administration viewed the discussions of the 2007 reform from the angle of national security. The 2004 Security Police Yearbook stated that maintaining ties with the Russian community mainly on the basis of education and culture was Russia’s long-term objective, and that as a result the Russian Embassy in Tallinn urged the local Russian community to oppose the reform and to participate in the corresponding activities.²⁴⁸ The activity of opponents of the reform was also mentioned in other Security Police yearbooks, for example in 2006²⁴⁹. The close surveillance of the opponents of the reform could also be explained by the fact that, in 2003 – 2004, the protests against an analogous reform in Latvia politically mobilised tens of thousands of people and cemented the local Russian community.

Studies related to the 2007 reform were performed in November 2004, 2006, and 2008 for the Ministry of Education and Research. On the eve of the reform’s launch in 2006,²⁵⁰ most Russian school teachers said that switching to teaching most subjects in Estonian was a “very useful” of a “fairly useful” idea. However, the majority of teachers also said that the new arrangement would generate additional workload and stress for students and teachers, and have an adverse impact on academic performance. Only 23% of those who taught in Russian at the time of the study were ready to switch to Estonian (31% in 2004). Interestingly the reform was assessed with greater optimism by directors than by teachers whose daily activities it was going to affect. It should also be noted that the theme is heavily politicised,

and a number of experts criticised the official study from the academic point of view. The survey was based on personal phone interviews and did not allow respondents to remain anonymous: doubts have therefore been expressed about the reliability of this survey results.

A key argument of the opponents of the reform is that Russian schools are largely unprepared for it, a point with which the administration used to agree²⁵¹ to some extent. Importantly, ethnic non-Estonians were also concerned about the preservation of the Russian language and culture (Table 18).

Table 18.
The assessment of the 2007 educational reform by ethnic Estonians and non-Estonians, 2005, %

Opinion about reform	All respondents		Only young respondents (aged below 29)	
	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians
A. Good decision, improves chances for young Russians to manage in Estonia	34	76	30	79
B. I question the decision, young Russians can lose their identity, fluency in Russian and ties to Russian culture	57	9	55	6
No assessment	9	15	15	15
Total	100	100	100	100

Source: Tallinn University Institute of International and Social Studies²⁵²

Largely on the basis of the negative experience gained by Latvia, Estonia adopted a gradualist approach to the reform and decided that as the first step the switch to Estonian should affect the teaching of Estonian literature (starting September 1, 2007), social studies, history, geography, and music. In 2008, the administration de facto postponed the reform until 2011 – by this deadline all schools will have to comply with the 60% requirement.²⁵³ Polls showed that the gentle start of the reform eased tensions over it in society. Unexpectedly for experts,

the percentage of the reform's supporters in the ranks of the Russian population increased in 2008. Nevertheless, the level of 'full' support for it among non-Estonians remained at 11%.

Table 19.

Current Estonian laws provide for the launch of school reform in 2007. Russians-language secondary schools would teach subjects in Estonian. The goal calls for teaching 60% of the subjects in Estonian. What is your attitude? 2007, 2008, %

	Ethnic Estonians		Ethnic Non-Estonians	
	2007	2008	2007	2008
Completely in favour	51	56	7	11
Generally in favour	38	36	24	40
Generally not in favour	5	4	31	26
Completely against	1	1	31	18
Cannot answer	5	3	7	5
Total	100	100	100	100

Source: *Estonian Open Society Institute*²⁵⁴

It is clear that the current Ministry of Education and Research hopes to boost the reform. It was decided in the fall of 2007 that additional support would be provided to the Russian schools who transferred a greater share of their teaching activity to Estonian than that required by the state curriculum (70,000 kroons or 4,473 euros per switched subject).²⁵⁵ A review of the Ministry's forecasts shows that it plans a rapid reduction in the number of Russian school students (much greater than could be reasonably based on the demographic dynamics in Estonia).²⁵⁶ Planning the implementation of the educational reform, the Estonian administration clearly assumes that in the future most ethnic non-Estonians will study in Estonian schools.

Though schools – both Estonian and Russian – are routinely closed in Estonia due to the overall demographic trends, some cases attract a lot of public attention. For example, in 2006 the Tartu city council decided to close the Pushkin Secondary School which was one of the oldest Russian schools in Estonia, founded in the early 20th century by the Russian community.

The plan was to set up the Russian Tartu Lyceum on the basis of the former Pushkin Secondary School and the Slavic Secondary School. Some parents took action against the council's decision to court,²⁵⁷ but it sided with the city council. Interestingly, the decision concerning the Pushkin Secondary School was made after its board of trustees asked twice for permission to postpone the change-over to instruction in Estonian.

There were no other cases when Russian schools in Estonia asked for such delays. Essentially the Estonian administration ignored the recommendation issued by the Framework Convention Advisory Committee: "There is clear need to provide the schools, local authorities and others concerned with more procedural and other guidance on how to invoke the possibility to have a minority language as a language of instruction after 2007. Furthermore, there is a need for the central authorities to take more proactive measures on this matter and to establish a sound approach on how to process future applications and to take eventual decisions in line with the principles of the Framework Convention" (Article 140).

3.1.4. Higher Education in Minority Languages

According to the 2000 census, the overall educational levels among ethnic Estonians and non-Estonians were roughly comparable. The situation has exhibited no significant change since 1989 (Table 20).

Table 20.

Educational levels among ethnic Estonians and non-Estonians for people aged 15 – 69 according to census data of 1989 and 2000, %

Educational levels	1989		2000	
	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians
No basic	17	11	8	7
Basic	24	19	23	18
Secondary	26	31	34	37
Professional secondary	21	25	20	23
Higher	12	14	15	15
Total	100	100	100	100

Source: *Statistics Estonia*²⁵⁸

However, judging by the 2000 census data, ethnic non-Estonians were underrepresented as college and university students: 9% of Estonians aged 15 – 19, 27% aged 20 – 24 and 9% aged 25 – 29 were college and university students, while the corresponding figures for non-Estonians were 9%, 18%, and 5%.²⁵⁹ The difference was even greater for Master of Science and PhD programmes. Among other reasons, the explanation for this lies in the limited opportunities for study in Russian in Estonia.

In the 1993/1994 academic year, 17% of college and university students in Estonia studied predominantly in Russian.²⁶⁰ By 2006/2007 the number had dropped to 10.4% (and 69% of those studied in private colleges). The percentage of students studying in Russian was even lower in the case of Master of Science programmes but somewhat higher in the case of applied higher education programmes (Table 22).

It should be noted that graduates of Russian schools can gain admission to colleges and universities where the instruction is in Estonian. In 2003 – 2005 the academic performance among graduates of Russian upper secondary schools who passed the advanced level category Estonian language proficiency test (full command of spoken and written Estonian) was 74 out of 100.²⁶¹ In 2005, 2,145 graduates of Russian schools (out of 3,552 total) continued their studies, in some cases in Estonian. The same figure for Estonian schools was 5,445 (out of 8,406 total).²⁶²

As of September/August 2005, ethnic non-Estonians were represented to varying degrees among students of various state/public colleges and universities. For example, according to the data supplied by colleges, graduates of Russian schools made up 10% of the students in the Tallinn College of Engineering, the Tartu Aviation Academy, the Estonian Academy of Music and Theatre, and the Estonian Academy of Arts.²⁶³ Graduates of Russian schools made up 80% of the students in the Narva College of Tartu University which, among other professionals, trains specialists for Russian schools and preschools. Nevertheless, even there only 25% of the instruction was in Russian.²⁶⁴ Broader use of Russian at the initial stage of the education and special adaptation programmes was found at two universities in Tallinn – Tallinn University and Tallinn Technical University, where roughly a quarter of students admitted in 2005 were ethnic non-Estonians.²⁶⁵

Table 21.
The number of students depending on college or university legal status and instruction language in the 2006/2007 academic year

Legal status/ Language of instruction	Estonian	English	Russian	Total
Public	40,668	341	1,835	42,844
State	10,833	0	334	11,167
Private	9,123	661	4,972	14,756

Source: Ministry of Education and Research²⁶⁶

Table 22.
Numbers of students depending on instruction language, type of study and college or university legal status in the 2006/2007 academic year

Type of education	Legal status	Students studying in Russian	All students	The percentage of students studying in Russian*
Applied higher	State/public	648	15,087	19.3
	Private	3,917	8,572	
Bachelor programme	State/public	1,448	27,348	7.6
	Private	997	4,964	
Master of Science programme	State/public	72	9,505	1.2
	Private	58	1,149	
PhD Programme	State/public	1	2,071	–
	Private	–	71	
Total in higher education	State/public	2,169	54,011	10.4
	Private	4,972	14,756	

Source: Ministry of Education and Research.²⁶⁷

*Note: * – Calculated by authors*

*In the autumn of 2007, the idea of creating Catherine College with bachelor programmes in Russian at the public Tallinn University ignited debates in Estonia. The plan met with strong opposition from a number of politicians and philologists. On November 12, 2007 the Senate of the Tallinn University decided to postpone the resolution on the matter indefinitely.*²⁶⁸

*The Minister for Education and Research, Tõnis Lukas, said he would reject the idea because its implementation would not promote the self-identification of local young people but would instead absolve them of the need to study Estonian in schools properly.*²⁶⁹ *On 22 November 2007 some 50 Estonian linguists published an appeal criticising Estonian colleges for offering programmes in English and Russian. They held that the availability of such educational options eroded the status of the Estonian language and the quality of education in Estonian and would in the long run pose a threat to the Estonian language and culture.*²⁷⁰

*On 4 February 2008, a Tallinn University work group proposed a compromise solution at a meeting with such partners as the representatives of the Estonian Language Council, the Language Inspectorate, the Ministry of Education and Research, and the Estonian parliament’s committee for cultural issues.*²⁷¹ *On 11 February 2008, the University’s Senate confirmed a new draft for Catherine College proposing to offer Russian-speaking students special support programmes totalling 40% of the curriculum. There will be no programmes free of charge. The instruction will be predominantly in Russian during the first year, in Russian and Estonian during the second year, and exclusively in Estonian during the final third year.*²⁷²

In 2005, the Framework Convention Advisory Committee stated that “Estonia has continued to provide the possibility for persons belonging to national minorities to devote their first year at university to acquiring proficiency in Estonian, and, in addition to private institutions, state universities have continued to offer some limited programmes in Russian.”²⁷³ Nevertheless, “language difficulties continue to be a serious obstacle in higher education for many persons belonging to national minorities, and this has contributed to the relatively high drop-out rate.”²⁷⁴ It was

recommended that “Estonia should take further measures to encourage and facilitate access of persons belonging to national minorities to higher educational institutions. In this connection, it is important to ensure that increase in the volume of state language instruction in the secondary education is pursued in a manner that does not harm the quality of education in schools attended by persons belonging to national minorities and thereby limit their possibilities to access higher education.”²⁷⁵

3.1.5. Education for Adults. Lifelong Education

Over the past years the level of participation of ethnic non-Estonians in lifelong learning was lower than that of Estonians. This trend is illustrated by the results of 1997 – 2006 studies conducted in the framework of a regular labour force surveys (Table 23).

Table 23.
The participation of the population aged 25 – 64 in lifelong learning; data for the last four weeks at the time of each survey, %

	Ethnic Estonians	Ethnic non-Estonians
1997	5.5	3.1
1998	7.1	4.3
1999	7.5	4.3
2000	7.4	4.2
2001	6.4	3.3
2002	6.5	3.1
2003	8.4	3.4
2004	7.9	3.8
2005	6.9	4.1
2006	7.9	3.8

*Source: Estonian Labour Force Surveys*²⁷⁶

Lack of proficiency in Estonian can limit the continuing education and re-training opportunities which are open to ethnic non-Estonians. The Estonian government has acknowledged the existence of the problem and recently classes in Russian have been offered to the unemployed. Estonian language teaching programmes for adults have been implemented in Estonia in the framework of the general national integration strategy with the help of EU funding.

3.2. Access to Employment

3.2.1. Legislation

According to Article 29 of the Estonian Constitution, an Estonian citizen has the right to choose his or her sphere of activity, profession and place of work freely. Citizens of foreign states and stateless persons who reside in Estonia have this right equally with Estonian citizens, unless otherwise provided by law.

Only Estonian citizens can serve as state and local self-government (municipal) officials. Certain types of positions can also be held by citizens of the EU (Article 14 of the Public Service Act). Third country nationals (citizens of non-EU countries and stateless people) cannot serve as state or municipal officials. Amnesty International finds that “this affects non-citizens and persons belonging to the Russian-speaking linguistic minority negatively in terms of employment opportunities and constitutes indirect discrimination”.²⁷⁷

According to the general rule, citizens of third countries who hold temporary residence permits must obtain work permits to get employed (Articles 13 and 13-1 of the Aliens Act).

There are types of positions that can be held exclusively by Estonian citizens or EU citizens (the overwhelming majority of all non-citizens in Estonia are third country nationals). Some of the examples are:

- a bailiff (Articles 10(1) and 50 of the Bailiffs Act);
- a patent agent (Article 14(1) of the Patent Agents Act);
- a master of an Estonian vessel (Article 3 (1) of the Law of Ship Flag and Registers of Ships Act);
- a harbour master (Article 10(2) of the Ports Act);
- a sworn translator (Articles 3(2) and 12(3) of the Sworn Translators Act);
- a notary (Articles 6(1) of the Notaries Act).

Citizens of the European Economic Zone can also work as harbour masters and masters of Estonian vessels. But only Estonian citizens can work as:

- a person whose responsibilities are related to aviation security (Article 24-3(2) of the Aviation Act);
- an operator of a vessel traffic service (Article 51(4) of the Maritime Safety Act);

- a pilot (Article 58(2) of the Maritime Safety Act);
- a sole proprietor who provides security services, a security officer or a head of in-house guarding units (Article 22(2) of the Security Act).

3.2.2. Ethnic non-Estonians on the Labour Market

a). Unemployment Rate

In the period since the early 2000s till the crisis in 2008, the Estonian labour market situation was generally favourable for all ethnic groups and the unemployment rate remained fairly low. Nevertheless a disparity between the rates of unemployment among ethnic Estonians and non-Estonians – by a factor of two on average – persisted throughout the years. In 2007 the unemployment rates among Estonians and minorities were 3.6% and 6.9% respectively. Individuals aged 15 – 24 faced a much more complicated job market situation than other age groups (Table 24).

Table 24.

Unemployment rates depending on age and ethnic origin, 1997 – 2007, %

Ethnic origin / Age group	1997	2001	2003	2004	2005	2006	2007
Estonians							
15 – 24	11.2	21.8	17.6	17.0	9.5	9.6	8.5
15 – 74	7.8	10.4	7.3	6.4	5.3	4.0	3.6
Non-Estonians							
15 – 24	21.2	22.9	26.0	30.9	29.4	18.5	13.7
15 – 74	13.2	16.8	15.2	15.6	12.9	9.7	6.9

Source: Estonian Labour Force Surveys

The unemployment data according to citizenship status reflect the difficulties experienced by minorities on the labour market. Whereas the unemployment rate among citizens of Estonians in 2007 was 3.9% it reached 8.3% among non-citizens. The rate was lower among the stateless people (8.1%) than among Russian citizens (9.8%). The latter circumstance can be only partially attributed to the high concentration of Russian citizens in the depressed Ida-Viru county located near the Russian border, which

is compactly inhabited by non-Estonians. While the unemployment rate in Tallinn was relatively low (3.5%), it was almost three times higher in the Ida-Viru county (9.4%).²⁷⁸ Nevertheless, unemployment is a serious problem for the non-Estonian population in Tallinn as well. Detailed data on the employment market for ethnic Estonians and non-Estonians can be found in Table 25.

Table 25.
Unemployment rate in Tallinn for people aged 15 – 74 depending on ethnic origin and other traits, 2001 – 2006, %

	2001 – 2003	2004 – 2006
Ethnic Estonians	7.0	3.5
Ethnic non-Estonians	14.8	11.7
...including ethnically non-Estonian Estonian citizens	11.4	8.2
...including ethnic non-Estonians with a good level of command of Estonian*	8.9	7.1

Source: *Estonian Labour Force Surveys*.²⁷⁹

Note: * – Non-Estonians with a good level of command of Estonian are those who said they could write and speak it, plus those who communicated in Estonian at home

Minorities are overrepresented in the low-quality workforce, especially in Tallinn (Table 26).

Table 26.
The share of those belonging to the low-quality work force among ethnic Estonians and non-Estonians aged 15 – 74 depending on place of residence, 2001 – 2006, %

	2001	2002	2003	2004	2005	2006
Tallinn						
Ethnic Estonians	6.5	7.4	7.9	6.8	6.0	5.3
Ethnic non-Estonians	14.5	14.5	14.7	17.0	13.7	11.7
Estonia						
Ethnic Estonians	10.0	10.0	10.3	10.3	9.4	8.6
Ethnic non-Estonians	15.5	14.7	13.9	15.4	13.9	13.3

Source: *Estonian Labour Force Surveys*.²⁸⁰

b). The Estonian Language Factor: Official Requirements

Both the structural transformation of the Estonian economy and the Estonian language proficiency are typically mentioned as the factors responsible for higher unemployment rates among minorities. Certain language requirements are criticised by experts as unbalanced and potentially discriminatory. Compliance with the official language requirements is monitored by the Language Inspectorate which issued 2,400 control acts in 2003, 2,371 in 2004, 2,607 in 2005, 3,225 in 2006 and 3,115 in 2007. In the majority of cases, the Language Inspectorate reported violations by the public and private sector employees. In 2007, 3,029 of the control acts (97%) reflected various violations.²⁸¹

Holding a number of positions in the private and almost all positions in the public sector required language proficiency certificates which could be of three categories (levels) and were earned through examinations which take several hours to sit. In 2005 – 2007 such tests were passed by 50 – 60% of those who took them (Table 27). Since July, 2008 Estonia introduced a six-level system of state language proficiency assessment.²⁸² At the same time the list of professions for which language requirements are set has been broadened (for example, private school teachers were included in it).

Table 27.
State language proficiency test results for various levels, 2005 – June 2008

Level	2005		2006		2007		2008 January – June	
	Passed the exam (%)	Average grade (out of 100)	Passed the exam (%)	Average grade (out of 100)	Passed the exam (%)	Average grade (out of 100)	Passed the exam (%)	Average grade (out of 100)
Basic	57.22	62.60	54.14	61.93	51.21	60.33	44.59	57.72
Middle	52.02	59.87	46.75	58.98	43.45	57.89	33.59	53.58
Advanced	55.40	60.61	56.81	62.44	52.44	61.00	47.95	60.12

Source: *The National Examinations and Qualifications Centre*

The Language Act was amended in 2007 to strengthen the legal status of the Language Inspectorate (so far its authority was mainly defined by various by-laws). The Act empowered the Inspectorate officials to recommend employers to fire employees due to their insufficient language proficiency and to make employees re-take language tests. An employee's failure to take the new appointed test by the due deadline renders his or her state language proficiency certificate invalid. An individual who successfully passed a revised test can be reimbursed within certain limits for the cost of the language courses (Articles 5-2 and 6-2 of the Language Act).

The UN Committee for the Elimination of Racial Discrimination stated in its August 2006 Concluding Observations concerning Estonia: "While the Committee recognises the efforts made by the State party in the field of employment, including the action plans for 2004 – 2007 under the State integration programmes, it remains concerned at the high rate of unemployment among members of minorities, in particular Russian-speaking minorities. The Committee reiterates its previous concern that the scope of the requirement of Estonian language proficiency, including in the private sector, may have a discriminatory effect on the availability of employment to members of this community".²⁸³

The Legal Information Centre for Human Rights (LICHR) says it receives large numbers of complaints about the fact that the official language requirements for the public sphere clearly ignore the Language Act's proportionality principle.

In 2008 human rights activists from LICHR were contacted by Russian-speaking employees of the Statistics Estonia who faced the prospect of being dismissed. They held senior official positions which required advanced level state language proficiency certificates, but they had only the middle level certificates. Nevertheless, the employees have worked successfully in Estonian for years and passed internal evaluations with positive results. Article 5(2) of the Language Act says that officials must have command of Estonian, must be able to understand and must use Estonian at the level which is necessary to perform their service or employment duties.

As for the private sphere, the Act says that requirements should be set in cases where they are needed for the public interest (meaning public

safety, public order, general government, education, health, consumer protection and occupational safety). According to the Language Act, the establishment of requirements concerning proficiency in Estonian should be justified and proportional to the objective sought, and should not distort the nature of the rights which are restricted (Article 2-1(2)).

In practice, Estonian courts encounter complications when petitioners and claimants ask to evaluate the proportionality of the requirements they have to fulfil. In many cases courts undertake the task of assessing the Estonian language proficiency of the parties involved in proceedings (for example, when the legitimacy of dismissing employees for lack of fluency in Estonian is contested). The Language Inspectorate is convinced that in the private sphere employers can demand proficiency beyond the official requirement which constitutes the necessary minimum only.²⁸⁴

In 2008 an individual who contacted the Legal Information Centre for Human Rights drew the attention to an advertisement published by a taxi company inviting applicants for a dispatcher position. One of the prerequisites was "Estonian as the native language". The Centre proved that non-Estonians including non-native fluent speakers of Estonian were generally discriminated in the case. The company eventually changed the advertisement accordingly.

A 2006 nationwide poll showed that only 8% of respondents belonging to minorities with Estonian citizenship, 2% of Russian citizens, and 1% of stateless people needed full command of spoken and written Estonian at their place of work (according to their own assessments, not the officially established requirements). Full command of spoken Estonian plus some command of written Estonian were needed by 25%, 5%, and 55% of individuals belonging to the same categories, and a reasonable command of spoken Estonian plus some extent of command of written Estonian by 26%, 20%, and 22%.²⁸⁵

The official requirements clearly ignore regional differences. An Amnesty International report says that, "[i]n many parts of Estonia, notably the North-Eastern region of Ida-Viru, Estonian is not spoken by the majority of those residing in the region. This means that the Estonian language skills are de facto not necessarily needed in all professions".²⁸⁶

c). The Estonian Language Factor: Labour Market Competition

In 2006, the Ministry of Social Affairs published a Report entitled “Risk Groups on the Labour Market: Non-Estonians”, which presented an extensive analysis of the situation faced by minorities in the employment sphere. Discussing the possibility that the high unemployment rate among minorities is linked to a lack of fluency in Estonian, the experts noted that the importance of proficiency in Estonian varies depending on the region of residence and employment, profession, age, etc. “It may play a less important role in the regions where opportunities to communicate in Estonian are relatively limited. For example, fluency in Estonian does not significantly affect the chances to find a job in Tallinn and the Ida-Viru county, though it does improve prospects for employment in Estonia as a whole. Besides, knowing Estonian gives ethnic non-Estonians a competitive advantage on the labour market over the non-Estonians who do not know it, but a less significant advantage compared to ethnic Estonians. Besides, studying Estonian is found to have a greater positive effect on the situation faced by individuals with a higher educational status”²⁸⁷

The recent data presented in the Estonian Labour Force Studies show that an intermediate level of proficiency in Estonian (the command of spoken Estonian) is not enough to compete with Estonians on the labour market. Minorities need the ability to read and write in Estonian (and/or use Estonian as the language of communication at home) to have equal opportunities in the labour market (Annex, Table B) and to occupy higher positions (Annex, Table G). One should also keep in mind that only a small fraction of ethnic non-Estonians has a good command of Estonian (Annex, Table J).

The situation faced by minorities in Tallinn is even tenser: the population of the city comprises two groups of roughly equal size – ethnic Estonians and non-Estonians, and they are locked in ‘rivalry’. Even a good command of Estonian is not enough to enable ethnic non-Estonians to compete successfully with Estonians on the labour market in Tallinn, both in terms of reducing the risk of being unemployed and also in terms of getting a managerial or specialist position (Annex, Tables E and H). This conclusion applies to all age groups including people aged 20 – 34 (Annex, Table I).

d). Income Levels and Disparity

Minority respondents were asked questions about their jobs and the economic situations of their families in a nationwide survey Prospects for Non-Estonians conducted in the spring of 2006. Most ethnic non-Estonians (60%) said they were satisfied with their jobs. A greater percentage of Estonian and Russian citizens (67% and 61%) than of stateless people (49%) said they were satisfied with their jobs.²⁸⁸ As for the material status of the respondents’ families, positive assessments (“positive” and “rather positive”) were expressed by 66% of Estonian citizens, 55% of Russian citizens, and 49% of stateless people (the corresponding percentages of those who gave negative assessments were 30%, 41%, and 47% respectively).²⁸⁹

According to the Statistics Estonia, disparities in the annual incomes of ethnic Estonians and non-Estonians have persisted over the past several years. In 2004, the average annual income among ethnic Estonians was 60,206 kroons and among non-Estonians 49,092 kroons. In 2007 the figures were 103,872 kroons and 87,798 kroons (Annex, Table L). Disparities between the two groups could also be discerned from the gender perspective.²⁹⁰

According to the 2006 Estonian Social Study ethnic non-Estonians were underrepresented in the higher income quintile comprising 1/5 of the population with the highest incomes (Table 28).

Table 28.

The distribution of ethnic Estonians and non-Estonians over income quintiles for ages 16 and up, 2006, %

	Estonia		Tallinn	
	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians
Lower 20%	19	21	10	16
2d quintile	20	21	14	17
3d quintile	18	23	12	20
4th quintile	21	19	25	25
Upper 20%	22	16	39	22
Total	100	100	100	100

Source: 2006 Estonian Social Study²⁹¹

In 2007 experts from the Tartu University published the results of a study entitled “Why Do Russians Earn So Little: Estonia during the Political and Economic Transition”.²⁹² The authors documented a rise of the “unexplained gap” in the salaries of Estonian and non-Estonian males. While in the early 1990s (at the time of the disintegration of the USSR) there were practically no unexplainable differences, later ethnic Estonians started to earn 10 – 15% more than Russians. The gap manifested itself mainly in different pay for the same work and in unequal returns to education. The unexplainable gap was particularly wide in Tallinn with its largest regional labour market in the country. The ethnic wage gap was equal for young and established workers. In the conclusions the authors of the study Kristian-Olari Leping and Ott Toomet expressed the view that the gap could be attributed to discrimination in the form of entry barriers combined with low-level segregation, and to segregated social networks.

A comparative study of the situation faced on the labour market by young ethnic Estonians and non-Estonians (aged 15 – 24) performed by Statistics Estonia analyst Siim Krusell was published in 2007. Analysing the 2006 data, he arrived at the conclusion that ethnic non-Estonians were in disadvantaged, especially in terms of the pay, unemployment and promotion. Non-Estonians were found to have much lower pay expectations than Estonians and had greater difficulty finding jobs adequate to their level of education. The author concluded that the position of ethnic non-Estonians was akin to that of second and third generation immigrants in a number of European countries.²⁹³

3.2.3. Labour Market Discrimination

Since 2004 the office of the Chancellor of Justice is entitled to organise a special conciliation procedure which can be invoked by victims of unequal treatment by both individuals and private legal entities. In 2004 – 2007, the Chancellor received only one petition for a conciliation procedure which was related to discrimination at work. A Russian-speaking resident of Estonia claimed that he was harassed on the basis of ethnic origin and forced to quit his job after a newspaper article describing the events of April 2007 was illustrated with his photograph.

(He said he did not take part in the events). No resolution on the case followed as the former employer of the individual who submitted the petition refused to take part in the voluntary conciliation procedure.²⁹⁴

In 2007, the labour disputes commissions (a pre-trial institution) received seven complaints from the entire Estonia containing anti-discrimination demands.²⁹⁵ None of the complaints was related to discrimination based on ethnic origin or religion. The situation in 2006 was similar.²⁹⁶

Over the past years, Estonia’s Supreme Court has not dealt with cases of ethnically-based discrimination.²⁹⁷

At the same time a poll conducted in June 2007 showed that a large share of ethnic non-Estonians had witnessed discrimination based on ethnic origin and language, including employment discrimination (Table 29). The same study demonstrated that the majority of ethnic non-Estonians did not believe that the private and public sector employment, earning, and educational opportunities open to them were the equal to those open to Estonians.²⁹⁸

Table 29.

Have you encountered a situation in which an individual was advantaged, was hired, appointed to a position, or materially rewarded based on ethnicity or language? 2007, %

	Sample	Ethnic origin	
		Estonians	Non-Estonians
No answer	0.1	0.1	0.2
Yes, permanently, it is usual	12.3	3.9	29.5
In some cases	15.4	10.6	25.2
Have never encountered but have heard about it	25.1	25.0	25.2
Have never encountered	47.1	60.5	19.9
Total	100.0	100.0	100.0

Source: Saar Poll²⁹⁹

As noted above (Section 1.4.3.c), a 2007 study of unequal treatment showed that the problem is encountered most often in the work sphere. Of all those who had experienced being treated unequally within last three years, 57% said it happened at work.³⁰⁰

ANNEX

to Section 3.2. Access to Employment³⁰¹

Table A.
Ethnic Estonians and non-Estonians depending on labour market status and gender, ages 15 – 74, 2007, %

Ethnic origin/gender	Share in labour force	Employment rate	Unemployment rate
Estonians			
Total	65.5	63.2	3.6
Men	70.2	67.0	4.5
Women	61.3	59.8	2.5
Non-Estonians			
Total	66.1	61.5	6.9
Men	73.8	68.5	7.2
Women	59.6	55.7	6.6

Source: Statistics Estonia, at <http://www.stat.ee> (17.10.2008)

Table B.
Unemployment rate among ethnic non-Estonians depending on the level of the Estonian language proficiency, ages 15 – 74, 2001 – 2006, %

Level of Estonian language proficiency – ethnic Non-Estonians	2001	2002	2003	2004	2005	2006
Elementary	18.7	17.7	17.2	19.6	18.1	13.0
Intermediate	14.4	11.2	12.6	10.3	7.1	5.9
Good	12.1	10.0	11.1	7.8	6.1	5.5
All ethnic non-Estonians	16.8	14.9	15.2	15.6	12.9	9.7
(Ethnic Estonians)	10.4	7.9	7.3	6.4	5.3	4.0

Source: Estonian Labour Force Surveys

Table C.
Unemployment rate among ethnic non-Estonians depending on citizenship status, ages 15 – 74, 2001 – 2006, %

Citizenship – ethnic non-Estonians	2001	2002	2003	2004	2005	2006
Stateless former Soviet citizens ('undefined citizenship')	17.1	17.6	19.0	18.9	14.8	9.7
Citizens of countries other than Estonia	21.6	17.5	15.2	19.0	16.3	12.3
Citizens of Estonia	14.1	11.4	11.9	10.7	10.2	8.4
All ethnic non-Estonians	16.8	14.9	15.2	15.6	12.9	9.7
(Ethnic Estonians)	10.4	7.9	7.3	6.4	5.3	4.0

Source: Estonian Labour Force Surveys

Table D.
Job loss and reemployment rates among the population aged 15 – 74 depending on ethnic origin, 2001 – 2006, %

	2001	2002	2003	2004	2005	2006
<u>Job loss rate</u>						
Ethnic Estonians	3.7	2.5	2.5	2.0	1.5	1.1
Ethnic non-Estonians	5.7	5.2	5.5	4.1	3.6	3.1
<u>Reemployment rate</u>						
Ethnic Estonians	29.7	34.3	38.5	40.0	41.7	50.3
Ethnic non-Estonians	31.7	30.1	33.2	29.6	32.0	36.6

Source: Estonian Labour Force Surveys

Note: Job loss rate is the percentage of the individuals who were unemployed at the time of the study but employed 12 months prior to it.
Reemployment rate is the percentage of the individuals who were employed at the time of the study but unemployed 12 months prior to it.

Table E.

Unemployment rate among the population aged 15 – 74 in Tallinn depending on ethnic origin and other characteristics, 2001 – 2006, %

	2001 – 2003	2004 – 2006
Ethnic non-Estonians with Estonian citizenship	11.4	8.2
Ethnic non-Estonians with a good command of Estonian	8.9	7.1
Ethnic non-Estonians	14.8	11.7
(Ethnic Estonians)	7.0	3.5

Source: Estonian Labour Force Surveys

Table F.

The share of low-quality workforce among ethnic Estonians and non-Estonians aged 15 – 74, according to place of residence, 2001 – 2006, %

	2001	2002	2003	2004	2005	2006
<u>Tallinn</u>						
Ethnic Estonians	6.5	7.4	7.9	6.8	6.0	5.3
Ethnic non-Estonians	14.5	14.5	14.7	17.0	13.7	11.7
<u>Estonia</u>						
Ethnic Estonians	10.0	10.0	10.3	10.3	9.4	8.6
Ethnic non-Estonians	15.5	14.7	13.9	15.4	13.9	13.3

Source: Estonian Labour Force Surveys

Table G.

The share of managers and specialists among ethnic non-Estonians according to proficiency in Estonian, for the population aged 15 – 74, 2001 – 2006, %

Level of Estonian language proficiency – ethnic non-Estonians	2001	2002	2003	2004	2005	2006
Elementary	10.3	13.9	13.1	13.6	12.5	12.5
Intermediate	21.1	23.9	23.0	26.0	25.5	26.3
Good	22.7	27.8	25.7	30.5	29.4	31.1
(All ethnic non-Estonians)	15.0	18.5	17.5	19.3	18.9	19.2
(Ethnic Estonians)	29.3	30.0	29.6	28.7	30.6	31.3

Source: Estonian Labour Force Surveys

Table H.

The share of managers and specialists among ethnic non-Estonians in Tallinn for the population aged 15 – 74, 2001 – 2006, %

	2001 – 2002	2003 – 2004	2005 – 2006
Ethnic non-Estonians with Estonian citizenship	27.5	26.5	28.3
Ethnic non-Estonians with a good command of Estonian	30.9	31.1	32.8
Ethnic non-Estonians	20.1	18.3	22.4
(Ethnic Estonians)	38.8	37.3	40.3

Source: Estonian Labour Force Surveys.

Note: Average data on a biannual basis (2001 – 2002, 2003 – 2004, 2005 – 2006)

Table I.

The share of managers and specialists among ethnic non-Estonians aged 20-34 according to place of residence, 2001 – 2006, %

<u>Tallinn</u>	2001 – 2003	2004 – 2006
Ethnic non-Estonians with Estonian citizenship	23.7	23.7
Ethnic non-Estonians with a good command of Estonian	20.8	26.6
Ethnic non-Estonians	14.6	20.5
(Ethnic Estonians)	35.8	37.8
<u>Estonia</u>		
Ethnic non-Estonians	12.3	16.8
(Ethnic Estonians)	27.0	29.5

Source: Estonian Labour Force Surveys.

Note: Average data on a three-year basis (2001 – 2003, 2004 – 2006)

Table J.

The distribution of ethnic non-Estonians of various age groups over Estonian language proficiency levels and citizenship status, 2006, %

Age	A good command of Estonian – a non-citizen	A good command of Estonian – a citizen of Estonia	An intermediate command of Estonian	An elementary command of Estonian – a citizen of Estonia	An elementary command of Estonian – a non-citizen	Total
15 – 19	12	37	19	15	17	100
20 – 34	8	33	17	12	30	100
35 – 49	6	20	16	17	41	100
50 – 64	4	19	18	12	47	100
65 – 74	3	17	14	14	52	100

Source: Estonian Labour Force Surveys

Table K.

The distributions of ethnic Estonians and non-Estonians over income quintiles and places of residence for ages 16 and up, 2006, %

	Estonia		Tallinn	
	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians
Lower 20%	19	21	10	16
2d quintile	20	21	14	17
3d quintile	18	23	12	20
4th quintile	21	19	25	25
Upper 20%	22	16	39	22
Total	100	100	100	100

Source: 2006 Estonian Social Study.

Note: Income quintile – 1/5 of the population depending on the average annual income. The first quintile comprises 1/5 of the population with the lowest incomes, the second – the next 1/5 of the population, etc.

Table L.

Average annual income depending on ethnic origin and gender, Estonian kroons, 2007

Ethnic group	Men	Women	Total
Estonians	108,578	99,763	103,872
Non-Estonians	91,940	84,487	87,798
Total	103,794	95,090	99,090

Source: Statistics Estonia, at <http://www.stat.ee> (01.08.2009)

Table M.

Rate of membership in trade unions of the population aged 15 – 74 depending on ethnic origin, 2001 – 2006, %

	2001	2002	2003	2004	2005	2006
Trade union members						
Ethnic Estonians	10	11	9	7	8	9
Ethnic non-Estonians	16	15	14	12	12	13
There is a trade union at an enterprise or in an organisation						
Ethnic Estonians	19	19	17	15	16	14
Ethnic non-Estonians	29	26	25	23	21	22

Source: 2006 Estonian Social Study.

Note: In Tables B, E, G, H, I, J:

(a) Ethnic non-Estonians with an elementary command of Estonian are those who said they either do not know Estonian at all or only understand it.

(b) Ethnic non-Estonians with an intermediate command of Estonian are those who said they could either speak Estonian or write and speak it, plus those who communicated in Estonian at home.

(c) Ethnic non-Estonians with a good level of command of Estonian are those who said they could write and speak it, plus those who communicated in Estonian at home. Groups (b) and (c) partially overlap.

3.3. Access to Social Benefits and Welfare

On the whole Estonia has ensured equal access to social benefits, welfare, and services to all residents regardless of citizenship status or type of residence permit. The equal treatment is guaranteed by several laws such as:

- Labour Market Services and Benefits Act (Article 3);
- Social Benefits for Disabled Persons Act (Article 3);
- State Pension Insurance Act (Article 4(1));
- State Family Benefits Act (Article 2(1));
- Health Insurance Act (Article 5(1)).

The social protection of refugees and asylum-seekers is provided in accord with a special Act on Providing International Protection to Aliens. Many types of social benefits and welfare are available to refugees and their family members on a *par* with permanent residents of Estonia (Article 75 of the above Act).

In practice the differences of treatment which are based on citizenship concern victims of Stalinist and Nazi repressions: only individuals who were Estonian citizens or permanent residents of Estonia by 16 June 1940 and who suffered from repressions, can be recognised as illegally repressed in accord with the Persons Repressed by Occupying Powers Act (Article 2(1)). As a result, the Act applies predominantly to Estonian citizens by birth, while the benefits listed in it remain beyond the reach of many other victims of repressions living in Estonia (including those held in concentration camps by Nazi Germany at a minor age) and of many of the people who participated in the clean-up of the accident at the Chernobyl nuclear power station.

As a minor in 1942, N. was compulsorily taken from the Leningrad Oblast and held at a quarantine camp in Estonia. He was forced to work for the Luftwaffe Reval – Laksberg Company. After the liberation in 1944, he remained in Estonia because he had nowhere else to go. He passed a test and gained the Estonian citizenship in 1994. In 2006, the Tallinn Pension Department turned down his application for the status of ‘a person repressed by an occupying power’ with a reference to the above act. N. regarded the decision as discriminatory and attempted to appeal it. As a result, the Tallinn district court ruled that no discrimination had taken place in the case, as the unequal treatment was based on law and pursued a legitimate objective.³⁰² In March 2008, N. filed a complaint with the European Court of Human Rights.

The Police Act presents another example of indirect discrimination against the ethnic non-Estonian population in terms of access to social benefits.

According to amendments to the Police Service Act (valid from July 1, 2004)³⁰³ one year of work for the police counts as three years of employment, but only for investigators who held their positions between March 1991 and September 1994 and who continued to work for the police at the time the amendments were passed. A. worked as an investigator in the early 1990s but left the job some time later. In his complaint, he stated that many ethnic non-Estonians had to do so as they either could not become citizens or failed the Estonian language tests. In A’s opinion, the legislation resulted in indirect discrimination of a group based on the language or ethnic origin. He lost his case at the Tallinn administrative court, and the Tallinn district court rejected his appeal. Among other factors the district court argued that A. had failed to prove that he belonged to the group of ethnic non-Estonians who had to left their jobs for the above reasons. Thus the court avoided the need to probe into the possibility that discrimination had taken place in this case.³⁰⁴

3.4. Access to Housing

In general every resident of Estonia can request social housing and home credits if he or she is in the country legally. There are currently no obstacles based on ethnic origin, citizenship status, social origin, or language proficiency.

Some banks, however, limit access to credits for the holders of temporary residence permits.³⁰⁵ Neither a ban on such limitations nor a permission to introduce them can be found in the special decree of the Governor of the Bank of Estonia.³⁰⁶ As of January 2006, 85% of the residence permits issued in Estonia were permanent.³⁰⁷

a). Housing Conditions and Minorities

The most complete information on the housing conditions of the population of Estonia was collected during the 2000 census. On the whole, the quality of ethnic non-Estonians’ housing conditions was found to be fairly high as most of them settled in the Soviet era in the outskirts of large cities where housing used to be relatively comfortable. According to the 2000 data, 90% of ethnic non-Estonians lived in

apartment blocks built in 1946 – 1990, and 4% in those built in the 1990s (the same figures for ethnic Estonians are 68% and 6%).³⁰⁸ A large share of ethnic Estonians lives in private homes or in farmsteads where residences are not supplied with central heating and gas.

Table 30.
Ethnic Estonians and non-Estonians living in conventional dwellings by comfort characteristics of dwelling, 2000 census, %

Conveniences	Ethnic Estonians	Ethnic non-Estonians
Kitchen or kitchenette	99.0	98.0
Water supply system	83.7	96.0
Sewage disposal system	81.4	95.1
Hot water	64.5	84.6
Bath (shower)	66.2	89.5
Sauna	26.5	4.5
Flush toilet	69.2	93.1
Electricity	99.7	99.7
Gas	33.8	51.2
Central heating	52.2	86.7
Electric heating	8.6	3.0

Source: *Statistics Estonia*³⁰⁹

In 2000, the majority of ethnic non-Estonians inhabited two regions: some 50% lived in Tallinn and roughly a third in the North-Eastern part of the country (Ida-Viru county), predominantly in cities where they comprised the overwhelming majority of the population. Ethnic non-Estonians made up slightly less than 50% of the population of Tallinn. The same non-Estonian population patterns are observed at present.³¹⁰ On the whole, no ethnic or racial segregation in the housing sphere is found in Estonia, nor are there any indications that the situation has changed considerably since the 2000 census. At the same time, it should be noted that in Tallinn ethnic non-Estonians mostly reside in the least prestigious districts (Lasnamäe, Põhja-Tallinn, etc.). To an extent, this situation is explained by the legacy of the planning in

the Soviet-era when federally owned enterprises built housing for their employees in these parts of the city.

The 2006 Estonian Social Study confirmed that, on the whole, the residences of ethnic non-Estonians had more amenities than those of Estonians. However, the percentage of minorities owning large apartments or private residences was much lower than that of ethnic Estonians. On average, minorities live in smaller dwellings (in terms of the number of inhabitants per number of rooms), and the gap is especially wide in Tallinn (Table 31).

Table 31.
Ethnic Estonians and non-Estonians living in conventional dwellings by housing conditions, 2006, %

	Estonia		Tallinn	
	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians
Type of dwelling				
Village home (farmstead)	15	1	–	–
Private residence, part of a private residence, a townhouse	30	5	19	2
An apartment	54	93	80	97
Other	1	1	1	1
Total	100	100	100	100
Residential area (square meters per person)				
– under 12	7	9	7	12
– 12,00–23,90	41	57	43	61
– 24,00 and more	52	34	50	27
Total	100	100	100	100
Density				
More than one person per room	30	45	28	49
One person per room	29	33	36	34
Fewer than one person per room	41	22	36	17
Total	100	100	100	100

Source: *2006 Estonian Social Study*³¹¹

b). Tolerance to Neighbours

According to a 2007 study performed by Faktum & Ariko, 23% of respondents would perceive black neighbours negatively and 25% declined to answer the corresponding question. Another question during the poll dealt with ‘concerns’ over neighbours. The list of concerns was topped by the command of the Estonian language, while 10% of the respondents reacted negatively to the skin colour (Table 32).

Table 32.**Concerns over neighbours, %**

They do not speak Estonian	32
They are uneducated	24
A different cultural background	18
A different religion	17
A different skin colour	10
Other	6
Neither of the above is a cause for concern	38

Source: Faktum & Ariko³¹²

Indeed, lack of fluency in Estonian can impede contacts between neighbours. While in many regions of Estonia contacts with people speaking other languages happen all the time, there are very few black people in Estonia. The example presented below is rather typical.

*The chairman of an apartment association’s assembly refused to put M. on the list of candidates for its revision board assuming that M. was not fluent in Estonian. M. regarded this as ethnically based discrimination and filed a complaint with the Chancellor of Justice in 2007. The latter, however, did not open a conciliation procedure since the alleged discriminator expressed no desire to take part in the voluntary process.*³¹³

Often complaints related to residential conditions are voiced by the Roma but no specific studies have been performed in Estonia.

3.5. Access to Health Care System

The relatively small amount of available data concerning the overall situation in the health care system for various ethnic groups suggests that the average health conditions among ethnic Estonians and non-Estonians differ, but not in many respects, and no general tendency can be discerned. Ethnic non-Estonians are in a better situation in terms of some indicators. There is no substantial disparity in access to medical care. Nevertheless minorities are much more exposed to the risks of drug abuse and HIV/AIDS.

a). Overall Data

The study “Health Behaviour among the Estonian Adult Population”, carried out by the National Institute of Health Development a year earlier, was published in 2007.³¹⁴ The corresponding polls are conducted every even year since 1990 in Estonia, Latvia, Lithuania, and Finland and coordinated by the Finnish National Public Health Institute. A survey in Estonia was performed by mail in the spring of 2006 involving 5,000 respondents aged 16 – 64 (simple random sample). Slightly less than 60% of those to whom questionnaires were sent responded (women, elderly people, and residents of rural areas responded more often than others).

The same study showed that ethnic Estonians regarded their health condition as good or sufficiently good more often than ethnic non-Estonians. The lowest indicators were observed among non-Estonian females who reported long-term (chronic) health problems more often than others. The difference between the indicators among minority and Estonian males was less significant.³¹⁵

Ethnic Estonians (especially men) reported inactive lifestyles more often than non-Estonians. There were slightly more overweight people among ethnic non-Estonians, mostly among women. Ethnic Estonian men reported the problem somewhat more often than non-Estonians. Ethnic Estonians reported high stress levels and said that they contemplated suicide during the last year more often. Depression among both ethnic Estonians and minorities is mostly found among women. As for men, depression was relatively more frequent in the 16 – 24 age group among ethnic Estonians and the 35 – 44 age group among non-Estonians.³¹⁶

The percentage of people having no medical insurance was almost twice higher among ethnic non-Estonians than among Estonians (12% and 7%).³¹⁷ The difference probably stemmed from the labour market situation, since in Estonia medical insurance is typically a derivative of the social security tax paid by employers. Ethnic Estonians saw specialised physicians and dentists more often than non-Estonians, but the difference was only slight. General physicians were attended roughly as often by ethnic Estonians as by minorities (non-Estonian men less often than Estonian men, non-Estonian women more often than Estonian women). Ethnic non-Estonians tended to call the paramedics (ambulance) and Estonians their general physicians (family practitioners) more often. Hospitalisation rates among the two groups were roughly the same.³¹⁸

Nevertheless, as the 2005 study commissioned by the Tallinn city government showed, 45% of Russian-speakers and 30% of Estonian-speakers regarded the quality of medical services as ‘poor’ or ‘very poor’.³¹⁹ It takes no additional studies to explain the difference between the above two figures: allegedly the fact that medical personnel do not use Russian was seen as a major problem by a part of the Russian population (the problem is the subject of recurrent discussions in the local media).

Let us return to the 2006 “Health Behaviour among Estonian Adult Population” study. It should be noted that during the year preceding the study, ethnic non-Estonians were diagnosed or sought treatment more often than Estonians for such health problems as elevated blood sugar/diabetes (a difference of over a factor of two), hypertension, myocardial infarction (a difference of a factor of three), arthritis, osteoporosis, and gastric/duodenal ulcer.³²⁰ All of the above health problems are often caused by stress.

A higher percentage of ethnic non-Estonians, both men and women, smoke daily, especially in the 16 – 24 and 25 – 34 age groups. However the number who smoke over 20 cigarettes a day is higher among ethnic Estonians. A greater percentage of Estonians also drank alcoholic beverages several times a week (in all age groups, both among men and women). The percentage of

men consuming over 40g of pure alcohol a week was much higher among ethnic Estonians than among non-Estonians.³²¹ The results possibly reflect the habits of residents of rural areas who are predominantly Estonian.

According to the Statistics Estonia in 2006, the percentage of ethnic non-Estonian women who had (legal) abortions was higher than the percentage of non-Estonian women of the reproductive age (15 – 49). The birth rate among minorities was somewhat lower than among majority members (Table 33). The abortion statistics could be affected by the fact that a greater percentage of ethnic Estonian women live in rural areas.

Table 33.
Birth and abortion statistics, 2006

	All women	Ethnic Estonian women (n)	Ethnic Estonian women (%)
Number of women as of January 1, 2006	725,385	492,372	68
...including women aged 15 – 49	341,530	231,662	68
Live births (by mother's ethnicity)	14,877	10,678	72
...including marital live births	6,212	3,797	61
Legal abortions	9,378	5,720	61
...including women under 15	20	14	70
...including women aged 15 – 19	1,298	908	70

Source: Statistics Estonia, at <http://www.stat.ee> (01.12.2008)

b). Drug Addiction and HIV/AIDS

According to the 2004 “Health Behaviour among Estonian Adult Population” study, one in six ethnic Estonian men and almost one in four non-Estonian men had taken drugs (Table 34). According to the 2006 data ethnic non-Estonian men used cannabis during the year preceding the study somewhat more often than Estonian men. Estonian women used cannabis more often than non-Estonian.³²²

Table 34.
Drug use (including trying drugs), 2004, %

	Ethnic Estonians						Ethnic Non-Estonians							
	Age													
	16 – 24	25 – 34	35 – 44	44 – 54	55 – 64	Total	16 – 24	25 – 34	35 – 44	44 – 54	55 – 64	Total		
Men	34.4	24.3	12.4	2.9	1.2	15.8	39.6	39.5	15.1	11.2	0.0	23.4		
Women	17.8	9.5	2.3	0.4	0.4	5.8	26.2	10.9	3.7	0.0	0.0	7.3		
Total							10.2							13.9

Source: National Institute of Health Development³²³

The 2005 report of the national Reitox focus group mentions 57 lethal cases directly linked to drug use (only four of the people who died were ethnic Estonian). On the whole the category most vulnerable to drug use consists of men aged 20 – 29 who are ethnic Russians and who reside in Tallinn or in the cities of the North-Eastern part of Estonia.³²⁴

The HIV/AIDS epidemic began in Estonia in 2000 and was mainly attributed to intravenous drug use. According to the Ministry of Social Affairs data based on the statistics accumulated by anonymous consultancies in 2001, some 90% of the new HIV cases were observed among the users of intravenous drugs. The percentage decreased to 44% by 2005 while the sexual transmission of HIV became increasingly frequent.³²⁵

The national HIV/AIDS prevention programme for 2002 – 2006 (adopted in 2002)³²⁶ stated that 98% of the intravenous drug users in Estonia were Russian-speakers, 86% of them males. 62% of the drug users with over 2 years of experience were under 25. Most of the AIDS cases were registered in Tallinn and the North-Eastern part of Estonia, the two regions with a considerable / predominantly minority population.³²⁷

A study HIV/AIDS-related Knowledge, Attitudes and Behaviour of Young People in Estonia was performed in 2005. It showed that young ethnic Estonians were more aware of how HIV is transmitted (except for the age group 19 – 24) while Russian-speaking school students practiced a more liberal sexual conduct than their Estonian peers.³²⁸ According to the 2006 “Health Behaviour among Estonian Adult Population” study,

54% of ethnic non-Estonian men and 68% of non-Estonian women never used condoms (the same figures for Estonians were 30% and 50%). The figures were much lower among younger people, especially men.³²⁹

There is information that the proliferation of HIV/AIDS (as well as hepatitis and tuberculosis) is a serious problem in Estonian jails. It can have an ethnic aspect as ethnic non-Estonians make up the majority of convicts in Estonia (58% in the early 2008).³³⁰

c). The Problem of the Use of the Minority Language

It is well-known that a large part of the Russian-speaking population is not fluent in the official language. From the legal standpoint, however, the health care institutions do not have to provide services in Russian or in other minority languages. This situation breeds conflicts, examples of which can be found in human rights reports.³³¹

Language-related difficulties are also encountered because all instructions accompanying medications must be translated into Estonian only. There is no mandatory translation into Russian. The Tallinn city government has acknowledged the problem and commissioned the translations of the instructions for the most widely used medicines for free distribution in city pharmacies.³³²

RECOMMENDATIONS

General Recommendations

- It should not be in the official definition of ‘a national minority’ that only citizens of Estonia can be recognised as members of a national minority.
- A law on the rights of national minorities based on international minority rights standards, and particularly on the Framework Convention for the Protection of National Minorities, should be passed.
- Sufficient funding for free Estonian language classes should be guaranteed to improve the access of minorities to citizenship and the labour market, as well as in order to promote their integration into political and social life.

- Training of police officers, prosecutor's office employees, and court staff related to human rights, tolerance, and non-discrimination should be organised.

Promotion of Tolerance

- Active support should be given to projects promoting tolerance towards new immigrants and visible minorities in Estonian society.
- Measures aimed at building trust between the Estonian-speaking majority and the Russian-speaking minority should be actively supported.
- Criminal charges for the incitement of hatred and especially for the use of hate speech in the media should be strengthened.
- Awareness of the cultural, historical, linguistic, and religious diversity in Estonia should be promoted both among the majority of the population and minorities.
- Inter-religious dialogue in the Estonian society should be encouraged.

Citizenship and Migration

- Citizenship should be extended without tests to individuals who were born in Estonia, or who graduated from schools and colleges in the country, as well as to older people.
- A differentiated approach to individuals belonging to the groups currently barred from Estonian citizenship should be practised.
- The norms concerning the family reunion should be subjected to monitoring, and the corresponding rules for the members of families of Estonian citizens and the permanent residents of Estonia should be simplified.
- Language requirements related to applications for the status of a long-term resident of the EC should be abolished.
- There should be a flexible approach to the legalisation of aliens having no valid residence permits and to the placing of names of foreign citizens in the Schengen Information System (SIS) database.

Participation in Political and Public Life

- Greater involvement in political life of third country nationals will be ensured by granting them the right to vote in European elections and the right to stand as candidates in local elections.
- Control over the intervention of the Estonian security services into the political and public life of the minorities should be tightened.

Struggle against Discrimination

- Serious efforts should be made to raise public awareness of the new Equal Treatment Act and the authority of the Commissioner for Gender Equality and Equal Treatment.
- The authority of the Chancellor of Justice in the area of equal treatment should be broadened.
- Sociological monitoring of the population's views, perceptions, and experiences concerning unequal treatment should continue.

Language Politics

- Constitutional and legislative guarantees of the use of minority languages in the regions where there is a dense population of minorities should be strictly observed. Consideration should be given to broadening the guarantees currently offered.
- Minority languages such as Russian should be supported whenever measures are taken which are aimed at supporting the state (official) language.
- The current obstacles to the use of parallel place names in Russian and other languages should be removed in regions traditionally inhabited by minorities.
- The current language requirements for access to justice should be reassessed. Convicts from minorities should have the right to use their native language in contacts with the administration. The right to file petitions for state legal aid in Russian, if not in other languages too, should be guaranteed by law.
- Language quotas for private TV channels should be abolished.

Education

- The current fixed proportions of instruction in different languages in upper secondary schools should be abolished, and the balance between instruction in various languages should be left to the discretion of the administrations of educational institutions.
- The system of training teachers for Russian schools needs to be developed.
- Specific language requirements for teachers applying for start-up bonuses should be abolished.
- Greater attention should be paid to minority groups' history and cultures, as well as to multiculturalism in general, in the school curricula and in teacher training.
- Supervision should ensure that students join language immersion programmes exclusively on the basis of their own and / or their parents' decisions, and the option of studying in Russian should be preserved under all circumstances.
- Schoolchildren who study in the language other than their native language, or that in which they communicate at home, need greater attention, psychological assistance, and instructional support.
- Equal educational opportunities including those in Russian should be guaranteed to individuals from minorities in higher education establishments.
- Continuing and lifelong education, including in Russian, requires greater state funding.

Labour Market

- The language-related legislation regulating the labour market should be adjusted to comply with the proportionality principle, and to take into account the specific features of the regions.
- The state should support efforts aimed at eradicating discrimination in the labour market based on race, ethnic origin, and language.
- An independent monitoring of the activities of the Language Inspectorate is necessary.

Other Social and Economic Rights

- The scope of the Persons Repressed by Occupational Regimes Act should be broadened to make it possible for all permanent residents of Estonia to apply for the status.
- A balanced housing policy should be pursued and the accessibility of housing – especially for vulnerable minority groups – should be monitored.
- The medical care system and pharmacies should take into account the linguistic diversity of Estonian society.
- Further struggle against HIV/AIDS and drug abuse should fully take into account the ethnic dimension of the problem.

ANNEX

The list of Estonian acts mentioned in the report

In English	In Estonian	References to official publications*
Act on Estonian Language Requirements for Applicants for Citizenship (not in force)	<i>Kodakondsuse taotlejatele esitatavate eesti keele tundmise nõuete seadus</i>	RT I 1993, 11, 171
Act on Granting International Protection to Aliens	<i>Välismaalasele rahvusvahelise kaitse andmise seadus</i>	RT I 2006, 2, 3
Aliens Act	<i>Välismaalaste seadus</i>	RT I 1993, 44, 637; RT I 1999, 50, 548; RT I 2004, 58, 410
Aviation Act	<i>Lenndusseadus</i>	RT I 1999, 26, 376
Bailiffs Act	<i>Kohtutäituri seadus</i>	RT I 2001, 16, 69
Basic Schools and Upper Secondary Schools Act	<i>Põhikooli- ja Gümnaasiumiseadus</i>	RT I 1993, 63, 892; RT I 1999, 42, 497
Chancellor of Justice Act	<i>Õiguskantsleri seadus</i>	RT I 1999, 29, 406
Churches and Congregations Act	<i>Kirikute ja koguduste seadus</i>	RT I 2002, 24, 135
Citizen of European Union Act	<i>Euroopa Liidu kodaniku seadus</i>	RT I 2006, 26, 191
Citizenship Act	<i>Kodakondsuse seadus</i>	RT I 1995, 12, 122

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In English	In Estonian	References to official publications*
Citizenship Act (1938/1992; not in force)	<i>Kodakondsuse seadus</i>	RT, 1992, 7, 109
Code of Administrative Court Procedure	<i>Halduskohtumenetluse seadustik</i>	RT I 1999, 31, 425
Code of Civil Procedure	<i>Tsiviilkohtumenetluse seadustik</i>	RT I 2005, 26, 197; RT I 2005, 49, 395
Code of Criminal Procedure	<i>Kriminaalmenetluse seadustik</i>	RT I 2003, 27, 166; RT I 2004, 65, 456; RT I 2006, 45, 332
The Constitution of the Republic of Estonia	<i>Eesti Vabariigi põhiseadus</i>	RT 1992, 26, 349; RT I 2007, 43, 311
Courts Act	<i>Kohtute seadus</i>	RT I 2002, 64, 390
Employment Contracts Act	<i>Eesti Vabariigi töölepingu seadus</i>	RT 1992, 15/16, 241
Equal Treatment Act	<i>Võrdse kohtlemise seadus</i>	RT I 2008, 56, 315
European Parliament Election Act	<i>Euroopa Parlamendi valimise seadus</i>	RT I 2003, 4, 22
Framework Convention for the Protection of National Minorities Ratification Act	<i>Vähemusrahvuste kaitse raamkonventsiooni ratifitseerimise seadus</i>	RT II 1996, 40, 154
Gender Equality Act	<i>Soolise võrdõiguslikkuse seadus</i>	RT I 2004, 27, 181
Health Insurance Act	<i>Ravikindlustuse seadus</i>	RT I 2002, 62, 377
Imprisonment Act	<i>Vangistuseseadus</i>	RT I 2000, 58, 376; RT I 2002, 84, 492
Labour Market Services and Benefits Act	<i>Tööturuteenuste ja -toetuste seadus</i>	RT I 2005, 54, 430
Language Act	<i>Keeleseadus</i>	RT I 1995, 23, 334
Local Government Council Election Act	<i>Kohaliku omavalitsuse volikogu valimise seadus</i>	RT I 2002, 36, 220
Local Government Organisation Act	<i>Kohaliku omavalitsuse korralduse seadus</i>	RT I 1993, 37, 558; RT I 1999, 82, 755
Law of Ship Flag and Registers of Ships Act	<i>Laeva lipuõiguse ja laevaregistrite seadus</i>	RT I 1998, 23, 321
Maritime Safety Act	<i>Meresõiduohutuse seadus</i>	RT I 2002, 1, 1
Notaries Act	<i>Notariaadiseadus</i>	RT I 2000, 104, 684
National Minorities Cultural Autonomy Act	<i>Vähemusrahvuse kultuuriautonomiamise seadus</i>	RT I 1993, 71, 1001
Obligation to Leave and Prohibition on Entry Act	<i>Väljasõidukohustuse ja sissesõidukeelu seadus</i>	RT I 1998, 98/99, 1575; RT I 2001, 68, 407

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In English	In Estonian	References to official publications*
Patent Agents Act	<i>Patendivoliniku seadus</i>	RT I 2001, 27, 151
Penal Code	<i>Karistuseseadustik</i>	RT I 2001, 61, 364; RT I 2002, 86, 504; RT I 2007, 31, 187
Persons Repressed by Occupying Powers Act	<i>Okupatsioonirežiimide poolt represseeritud isiku seadus</i>	RT I 2003, 88, 589
Place Names Act	<i>Kohanimeseadus</i>	RT I 2003, 73, 485
Police Act	<i>Politseiseadus</i>	RT 1990, 10, 113
Police Service Act	<i>Politseiteenistuse seadus</i>	RT I 1998, 50, 753
Ports Act	<i>Sadamaseadus</i>	RT I 2009, 37, 251
Protection of War Graves Act	<i>Sõjahaudade kaitse seadus</i>	RT I 2007, 4, 21
Public Service Act	<i>Avaliku teenistuse seadus</i>	RT I 1995, 16, 228; RT I 1999, 7, 112
Riigikogu Election Act	<i>Riigikogu valimise seadus</i>	RT I 2002, 57, 355
Security Act	<i>Turvaseadus</i>	RT I 2003, 68, 461
Social Benefits for Disabled Persons Act	<i>Puuetega inimeste sotsiaaltoetuste seadus</i>	RT I 1999, 16, 273; RT I 2002, 39, 245
State Family Benefits Act	<i>Riiklike peretoetuste seadus</i>	RT I 2001, 95, 587
State Legal Aid Act	<i>Riigi õigusabi seadus</i>	RT I 2004, 56, 403
State Pension Insurance Act	<i>Riikliku pensionikindlustuse seadus</i>	RT I 2001, 100, 648
Sworn Translators Act	<i>Vandetõlgi seadus</i>	RT I 2001, 16, 70
Vocational Educational Institutions Act	<i>Kutseõppeasutuse seadus</i>	RT I 1998, 64/65, 1007; RT I 2001, 68, 406

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- ¹⁴ Citizenship and Migration Board. Yearbook 2006. P. 13.
- ¹⁵ 2000 Population and Housing Census: Education and Religion, IV, Tallinn: Statistical Office of Estonia, 2002. Table 92.
- ¹⁶ Ibid. Table G.
- ¹⁷ Citizenship and Migration Board, at <http://www.mig.ee> (01.03.2009).
- ¹⁸ The status is granted to individuals who have no right to apply for the refugee status in accordance with the international law when there are reasons to believe that the individual faces the threat of death penalty, corporal punishment, torture, inhuman or degrading treatment, humiliating punishment in the country of residence or needs protection as a result of a domestic or international armed conflict.
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- ⁵⁵ *Riigi Teataja*, I 2008, no. 43, art. 245.
- ⁵⁶ Supreme Court Administrative Chamber judgement, October 20, 2008, case 3-3-1-42-08, published in *Riigi Teataja*, III 2008, no. 42, art. 288. The case involved an individual who worked as the captain of a vessel sailing under the flag of a country other than Estonia.
- ⁵⁷ *Ibid.*, Para. 28.
- ⁵⁸ *Riigi Teataja*, I 1998, no. 111, art. 1827.
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- ¹⁰³ Riigi Teataja, I 2003, no. 4, art. 21.
- ¹⁰⁴ Riigi Teataja, I 2007, no. 62, art. 394.
- ¹⁰⁵ Currently the Schengen zone comprises Switzerland, Norway, Iceland and all the EU countries except for UK, Ireland, Cyprus, Bulgaria, and Romania.
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- ¹¹¹ Supreme Court Constitutional Review Chamber judgement, January 21, 2004, case no. 3-4-1-7-03. Para. 39. Published in Riigi Teataja, III 2004, no. 5, art. 45. English text available at <http://www.nc.ee/?id=412> (01.12.2008).
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- ¹¹³ Police Board letters no. PA2-1.11.2/3177 of July 18, 2006 and no. PA_2.1-20.2/5648 of 12 January 2007; Ministry of Justice letter of January 21, 2008. Available in the authors' archive.
- ¹¹⁴ 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.
- ¹¹⁵ The activities of the Estonian parliament are reflected at the official site <http://www.riigikogu.ee>, where legislation drafts are also posted.
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- ¹¹⁷ Harassment is an unwanted conduct with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.
- ¹¹⁸ Riigi Teataja, I 2003, no. 23, art. 142.
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- ¹²⁰ Information about the activities of the Chancellor of Justice can be found at <http://www.oiguskantsler.ee> (01.12.2008).
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- ¹²³ Discrimination in the European Union 2008: Results for Estonia, European Commission, 2008. This and other Eurobarometer reports are available at http://ec.europa.eu/public_opinion (01.12.2008).

- ¹²⁴ Discrimination in the European Union: Summary, Special Eurobarometer 263 / Wave 65.4 – TNS Opinion & Social, January 2007, European Commission. P. 33.
- ¹²⁵ Discrimination in the European Union 2008: Results for Estonia. P. 1.
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- ¹²⁷ Ibid. P. 1.
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- ¹³² K. Hallik, V. Poleshchuk, A. Saar, A. Semjonov. Estonia: Interethnic Relations and the Issue of Discrimination in Tallinn, Tallinn: Legal Information Centre for Human Rights, 2006. P. 33.
- ¹³³ Ibid. P. 48.
- ¹³⁴ The question asked was: “Have you experienced any infringement of your rights or maltreatment due to your ethnic background in the past three years?” It should be noted that 25% of naturalised citizens of Estonia, 51% of Russian citizens, and 30% of the stateless people have not been to educational institutions during the period of time. Over the same term, 24% of Russian citizens have not been to cafes and restaurants, etc. This can be the explanation why the indicators for various groups of non-citizens differ so substantially.
- ¹³⁵ K. Hallik, V. Poleshchuk, A. Saar, A. Semjonov. Estonia: Interethnic Relations... P. 39.
- ¹³⁶ Ibid. P. 40.
- ¹³⁷ M. Lagerspetz, K. Hinno, S. Joons, E. Rikmann, M. Sepp, T. Vallimäe. Isiku tunnuste või sotsiaalse positsiooni tõttu aset leidev ebavõrdne kohtlemine: elanike hoiakud, kogemused ja teadlikkus. Uuringuraport (Unequal Treatment on Grounds of Individual or Social Characteristics: Attitudes, Experiences and Awareness of the Population in Estonia. Study Report), Tallinn, 2007. P. 15. Available at <http://www.sm.ee> (01.12.2008).
- ¹³⁸ Ibid. Pp. 143 – 144.
- ¹³⁹ Ibid. P. 144.
- ¹⁴⁰ Ibid.
- ¹⁴¹ Ibid. P. 67.
- ¹⁴² Ibid. P. 19.
- ¹⁴³ Ibid. Pp. 145 – 146.
- ¹⁴⁴ Ibid. P. 93.
- ¹⁴⁵ Ibid. P. 141.
- ¹⁴⁶ Ibid. P. 95.
- ¹⁴⁷ Ibid. P. 101.

- ¹⁴⁸ Ibid. Pp. 150 – 151.
- ¹⁴⁹ The results of all elections since 1992 can be found at the Estonian Electoral Commission website, at <http://www.vvk.ee> (01.12.2008).
- ¹⁵⁰ All coalition agreements since 1992 can be found at the Estonian government's official site <http://www.valitsus.ee> (01.12.2008).
- ¹⁵¹ Mr. Eldar Efendijev, minister without portfolio, January 28, 2002 – April 10, 2003.
- ¹⁵² Tallinn city court judgement, September 1, 2003, criminal case no. 1/1-2029/02.
- ¹⁵³ For example, see “Eesti Päevaleht” (daily), March 4, 2004.
- ¹⁵⁴ The 24 – 28 May, 2004 Language Inspectorate report is available at <http://www.keeleinsp.ee> (01.10.2008).
- ¹⁵⁵ Citizens of Estonian and citizens of other EU countries residing in the country have the active and passive electoral rights in European elections (European Parliament Elections Act, Article 4).
- ¹⁵⁶ According to the 2000 census ethnic non-Estonians made up 15.8% of the citizens of Estonia. 2000 Population and Housing Census: Citizenship... II. Table 39.
- ¹⁵⁷ Article 5(2) of the old version of the Local Government Council Election Act.
- ¹⁵⁸ Riigi Teataja, I 2006, no. 48, art. 358.
- ¹⁵⁹ 2000 Population and Housing Census: Citizenship... II. Table 12.
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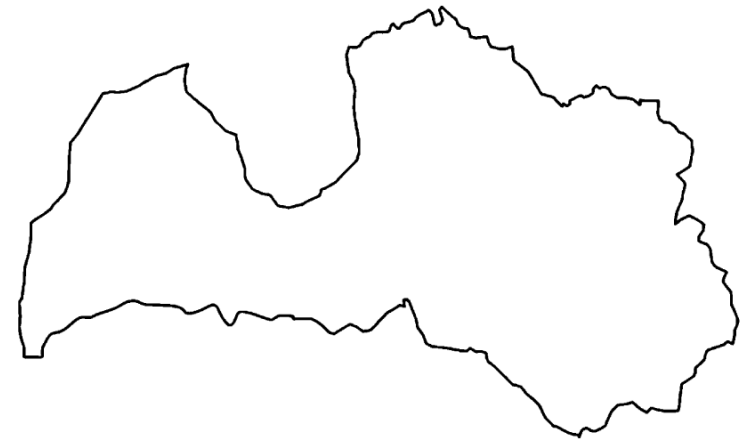
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- ³³¹ ENAR Shadow Report 2006: Racism in Estonia, Brussels: ENAR, 2007. P. 18.
- ³³² Interview with Tallinn City Chancellery PR Service Officer, September 29, 2008. Available in the authors' archive.

LATVIA



PART I.

GENERAL ASPECTS OF MINORITY POLICIES

1.1. Basic Statistics

1.1.1. Ethnic Composition of the Population

History

The population of present-day Latvia has always been heterogeneous. According to the first census carried out in 1897, the population of what is Latvia today was estimated at 1.929 million. Ethnic Latvians made up 68% of the population, while the Slavs (mainly Russians, Belarusians and some Ukrainians) were major minority groups making up 12% of the population. Jews, Germans and Poles were estimated at 7.4%, 6.4% and 3.4% respectively.¹ (Jews are classified as an ethnic, rather than religious group in Latvia.)

In 1914, non-Latvians made up 40% of the country's population (2.6 million).² The minorities settled mainly in cities. For instance, by the end of the 19th century, the city of Daugavpils was home to only 2% of ethnic Latvians.³ During World War I, many people, especially those who lived in the cities, fled Latvia as refugees. Thus the country's population shrank to 1.6 million. The ethnic composition of the population changed substantially as well. By 1935, the population had increased to nearly 2 million with minorities making up 24% of the area's population.

During World War II, Latvia lost nearly a third of its population as many residents of Latvia were murdered, deported or were forced to emigrate. The German minority was repatriated to Nazi Germany before the beginning of the war, while the Jewish and the Roma minorities were almost completely exterminated during the Nazi occupation. Members of other ethnic groups, including Latvians and Russians, also suffered Nazi and Stalinist repressions.

Under Soviet rule, Latvia witnessed the arrival of immigrants from other republics of the USSR. Thus, by 1989 the number of ethnic non-

Latvians had risen to 48% (2.7 million). Soon after Latvia restored its independence in 1990, the number of ethnic Latvians started to grow.

Contemporaneity

As of January 1, 2008, the population of Latvia is estimated at 2,276,348 people:⁴

Latvians – 1, 345, 100 (59.1%); Russians – 638, 408 (28.0%); Belarusians – 83, 799 (3.7%); Ukrainians 57, 281 (2.5%); Poles – 54, 121 (2.4%); Lithuanians – 30, 780 (1.4%); Jews – 10, 168 (0.4%).

The Livonians (or Livs), the indigenous population of the areas bordering the Gulf of Riga, currently is put at only 176 people. The Roma population is reported to be 8,593, though some sources in Roma non-governmental organizations insist that the real Roma population is almost twice as large.⁵

Experts point to the differences in indices of the natural population increase among various ethnic groups in Latvia.⁶ Positive natural population growth is typical only for the Roma, while other ethnic groups are characterized by a high death rate. However, negative population growth rate among Latvians is lower than among the minorities. In 2005 the average birth rate in Latvia was 9.3 per 1000. It is estimated to be 10.4 for ethnic Latvians and 7.8 for the minorities (8.1 for Russians and 7.0, 5.0, 8.0 and 9.0 for Ukrainians, Belarusians, Poles and Lithuanians respectively). The average death rate in Latvia was 14.2. It is estimated to be 13.1 among ethnic Latvians while for ethnic Russians it was 15.6 (and 15.9 for all members of the minorities).⁷

The average age of ethnic Latvians is 37.3 years. It is 40 for Russians, 45.2 for Belorussians, 42.3 for Ukrainians and 42.5 for Poles.⁸

In some regions of the country, ethnic Latvians are in a minority: in Riga, the capital, Latvians are estimated at 42.2%, while ethnic Russians make up 41.7 % of the city's population. In the second largest city in Latvia, Daugavpils, 17.4 % of the population are ethnic Latvians and 53.2% ethnic Russians. In Rēzekne Latvians make up 44.4%, while Russians are estimated to represent 48.1%. The statistics for the Daugavpils and the Krāslava regions are 40%, 48.9 % and 37.7%, 24.7% respectively.⁹

Languages

Under Soviet rule the Russian language was the official state language as well as Latvian. State financed education in Latvian was guaranteed at all levels, but minority schools where there was no tuition in Russian were closed. Latvian schools used to provide quality Russian language classes, while Russians were not satisfied with the way the Latvian language was taught. Though it was a compulsory subject, the teaching process was not effective. Along with mass migration it led to ‘non-symmetric bilingualism’, when most ethnic Latvians had a good command of Russian, while many ethnic Russians had a poor knowledge of the Latvian language. According to the census of 1989, only 22.3% of ethnic Russians knew the Latvian language.¹⁰ In 1995 55.8% of Russians said they knew the language.¹¹ In 2000 the census showed that 49.8% of the respondents who belonged to the minorities knew the Latvian language.¹² In 2008, more than 50% of the ethnic non-Latvian respondents said they knew the Latvian language quite well: 24.8% of the Russian respondents said they had perfect knowledge of the language (27.9% of other ethnic non-Latvians), 32.7% were reported to have a good command of Latvian (24.9% of other non-Latvians), 34.7% said their knowledge was very poor (41.2% of other non-Latvians), while 7.9% did not have any Latvian language skills at all (5.9% of other non-Latvians).¹³

As a result of the Soviet language policy in Latvia, most non-Russian minorities in Latvia accepted Latvian or Russian as their main language and were thus assimilated into the corresponding linguistic communities. According to the 2000 census, 58.2% of the respondents named Latvian as their mother tongue, 39.6% said their native language was Russian, while 2.2% mentioned another language as their first language. Latvian is the native language for 95.6% of Latvians. Russian is the native language not only for ethnic Russians but also for most ethnic Jews (79.1%), Belarusians (72.8%), Ukrainians (67.8%) and Poles (57.7%).¹⁴

1.1.2. The Problem of Statelessness

As of January 1, 2008, the population of Latvia is estimated to be 2,276,348:¹⁵ 1,857,508 (81.6%) are Latvian citizens, 372,421 (16.4%) ‘non-citizens’ (– now stateless former citizens of USSR and their descendants who already resided in Latvia in 1992; for more information see 1.2.4), 270 stateless persons without ties with Latvia, and the rest foreign citizens.

There are 29,182 citizens of Russia (1.3%), 3,392 citizens of Lithuania, 3,063 citizens of Ukraine, and 1,954 citizens of Belarus.

Out of 931,248 ethnic non-Latvians only 515,293 (55.3%) were citizens of Latvia, while 370,697 (39.8%) were registered as ‘non-citizens’. Of all the numerous ethnic groups, the share of ‘non-citizens’ is highest among ethnic Ukrainians (61.6%), while the share among Belarusians, Russians, Lithuanians and Jews was estimated at 59.7%, 38.5%, 33.3% and 31.6% respectively (see Table 1).

Table 1.
Residents of Latvia: their ethnic origin and citizenship, 2008

Ethnic origin	Citizens	Non-citizens	Others*	In all
Latvians	1,342,215	1,724	1,161	1,345,100
Russians	367,035	245,665	25,710	638,410
Belarusians	31,196	50,008	2,595	83,799
Ukrainians	17,442	35,290	4,549	57,281
Poles	40,635	12,693	793	54,121
Lithuanians	18,385	10,245	2,150	30,780
Jews	6,507	3,217	444	10,168

Source: *Population register*.¹⁶

Note: * foreign citizens, stateless persons, refugees or persons under subsidiary protection

‘Non-citizens’ in Latvia comprise 26.1% of the population of Riga, 22.6% of the population of Daugavpils, 24.8% of the population of Liepāja and 21.6% and 21.8% of the population of Jūrmala and Ventspils respectively. The number of ‘non-citizens’ is even larger in the municipalities, where in Soviet times industrial facilities were located, and also in the cross-border areas: in the town of Seda (39.8%), in the parish of Piedruja on the Latvian-Belorussian border (31.6%). In the towns of Olaine and Dobele there are 31% ‘non-citizens’, while in the parish of Kaplava and Zilaiskalns there are 29.4% and 29.1% respectively. In the town of Vangaži ‘non-citizens’ comprise 28.6%, and in the region of Salaspils and the parish of Olaine 28.2% and 26% respectively.

1.1.3. Major Religious Groups

Historically, the largest religious groups in Latvia are Lutheran, Roman Catholic and Orthodox. As of 2007, the Board of Religious Affairs registered 877 congregations.¹⁷ These included Lutheran congregations (302 with a membership of 450,506), Roman Catholic (251 with a membership of 500,000), Orthodox Christian (119 with a membership of 350,000), Baptist (93 with a membership of 7,042), Old Believers (68; 2,693), Seventh-day Adventist (51; 3,955), Pentecostals (48; 2,693), Evangelical Protestant groups (33; 1,628), New Generation Church (15; 5,075). Also there were registered 14 Jewish and 13 Muslim congregations (with memberships of 818 and 400 respectively).

Analysing the religious adherence of ethnic Latvians and non-Latvians, one may conclude that the former mainly belong to Lutheran and Roman Catholic congregations, while Russians belong to the Orthodox Christian and Old Believers. Other non-Latvians mostly adhere to Orthodox Christianity and Roman Catholicism.

Table 2.
Religious adherence by ethnicity, June 2008, %

	Latvians	Russians	Other ethnic groups
Atheist	11.8	10.0	6.7
Catholic	25.5	12.1	35.9
Lutheran	39.9	2.6	1.2
Orthodox	4.0	53.9	40.2
Baptist	1.6	1.3	4.5
Seventh-day Adventist	0.1	0	1.2
Judaism	0	0	1.2
Old Believers	0.5	10.1	0
Believers who do not adhere to any congregation	10.8	8.3	7.8
Other congregation	1.3	0.7	1.2
Difficult to identify	4.5	1.0	0

Source: SKDS data (1001 respondents) provided under request on January 26, 2009

1.1.4. Refugees

The asylum granting procedure was launched in Latvia in 1998. In 2007, 34 persons requested asylum in Latvia. Five of them were granted refugee status, 3 persons were permitted to be under subsidiary protection¹⁸, 2 persons revoked their requests, one of the appeals was dismissed, 11 other appeals were rejected.¹⁹

In the period 1998 – 2007, 203 persons applied for asylum but only 15 received the refugee status. In 2004 one person lost his or her refugee status because he or she received citizenship of the Republic of Latvia by means of the naturalisation procedure. In 2002 – 2007, 20 people were granted subsidiary status (five persons lost the status because they returned to their country of origin). As of January 1, 2008, in Latvia there were 14 persons with refugee status and 15 under subsidiary protection.

Latvia is supposed to be a transit country for those people who are going to apply for asylum in Western Europe. In 2007 Latvia received 18 requests from other countries of the EU, in which they asked to accept or deny responsibility for the asylum granting procedure since Latvia was the first country the asylum seekers had entered.²⁰ In 9 cases Latvia accepted responsibility, while another 9 requests were rejected. Latvia also addressed 2 requests of this kind to other members of the EU.

1.2. Basic Ethnic Policies

1.2.1. Recognition of National Minorities

Legislation

Since the Republic of Latvia restored its independence in 1991, it has always admitted the fact that various ethnic groups resided on its territory. According to Section 41 of the Constitutional Law on Rights and Duties of Man and of the Citizen, adopted on December 10, 1991, everyone was obliged to respect the traditions, customs and national dignity of the Latvian nation and of the national and ethnic groups residing in Latvia. But in 1998 this law was no longer valid since Article 114 of the Constitution was adopted, which enabled members of minorities to preserve and develop their language and ethnic and cultural identity.

In March 1991, the Law on the Free Development and Rights to Cultural Autonomy for National and Ethnic Groups was adopted, but the document had a purely declarative character and did not contain any effective mechanisms of legal protection.

In June 2005, Latvia ratified the Framework Convention for the Protection of National Minorities. The Latvian Parliament made a declaration (Section 2 of the Law on the Ratification of the Framework Convention for the Protection of National Minorities) that under the Convention this notion applies to citizens of Latvia who differ from Latvians in terms of their culture, religion or language, who have traditionally lived in Latvia for generations and consider themselves to belong to the State and society of Latvia, who wish to preserve and develop their culture, religion or language. Persons who are not citizens of Latvia or another State but who permanently and legally reside in the Republic of Latvia, who do not belong to a national minority within the meaning of the Framework Convention for the Protection of National Minorities as defined in this declaration, but who identify themselves with a national minority that meets the definition contained in this declaration, shall enjoy the rights prescribed in the Framework Convention, unless specific exceptions are prescribed by law.

Currently the law makes no provisions for any exceptions. However, it remains unclear whether 'non-citizens' in Latvia are taken into account while deciding on the percentage of the minorities in some administrative entities. It is also not easy to define the status of some ethnic groups when discussing people "who have been traditionally living in Latvia for generations". Thus, most ethnic Ukrainians arrived in Latvia in Soviet times, though some Ukrainians have lived there for much longer.

The Law on the Free Development and Rights to Cultural Autonomy for National and Ethnic Groups guarantees any Latvian citizen or a permanent resident (if he or she does not have citizenship of any other country) the right to declare their ethnic origin in compliance with their self-consciousness (Section 2).

In December 2008, the President of Latvia, Valdis Zatlers, appointed Romualdas Ražukas, the former head of the People's Front of Latvia, to be chairman of the re-launched President's Council on National

Minorities. Ražukas, in his turn, invited members of the minority communities to join the Council. The chairman said the Council was going to work in accordance with the legislation and that, undoubtedly, only the Latvian language was and would always remain the country's official language; Ražukas also announced that the Council would not waste time in useless political debates as they obviously would not help the participants to achieve an agreement.²¹

Ethnicity registration

The Latvia's Population Register contains information on the ethnic origin of each person (Population Register Law, Section 10, para.1, subpara.9). The registration is obligatory even for newborns: their ethnicity is recorded as being the same as that of their parents. If the parents are of different ethnicity, they can choose one of the two for their baby. The Personal Data Protection Law, however, qualifies information about one's ethnicity as sensitive data (Section 2, para.8) and imposes certain restrictions on access to such information.

Before 2002, all passports contained information about the bearer's ethnicity. Since the Parliament adopted the new Law on Identification Documents in 2002, the registration of one's ethnicity is no longer compulsory (Section 5, para.4).

The Law on Changing the Record of a First Name, Surname and Ethnicity establishes the *blood principle* of ethnic determination (*ius sanguinis*), whereby ethnicity is traced back to an individual's predecessors. Individuals seeking to change their official ethnicity record are required to provide evidence that an ancestor was of the desired ethnicity (Section 11, para.1). When changing to Latvian ethnicity, the applicant must also prove his/her command of the state (official) language (Section 11, para.2). This approach is seemingly motivated by certain privileges enjoyed by Latvians and Livs in accordance with the Citizenship Law and the Repatriation Law.

Currently the Parliament is considering a new draft Law on Changing the Record of a First Name, Surname and Ethnicity.²² The aim is to reduce minimum age from 16 to 15 of those allowed to change ethnicity. The draft drops the requirement to prove proficiency in the Latvian language if a person wants to change his or her ethnicity to

‘ethnic Latvian’. Apart from this, it is expected that the fee for changing a first name, surname or ethnicity will increase from 20 lats (about 29 euros) to 50 lats (about 70 euros). In accordance with the draft law, a person may change ethnicity only once in a lifetime.

Regional identity

The ethnic identity of the Latgalians (the population of Latgale, a region in eastern Latvia, close to the borders of Russia and Belarus) is a subject of debate. Latgalian belongs to the Baltic group of languages, and thus has much in common with Latvian and Lithuanian. Some linguists believe Latgalian to be a separate language, while others insist it is a regional *dialect* of Latvian. In the early 20th century, neither Latgalian nor Latvian was officially recognised but despite this books and newspapers were printed in both languages. In 1920 – 1934 Latgalian was spoken in Latgale equally with Latvian, it was taught at schools and was used in the media. Under Karlis Ulmanis’ dictatorship (1934 – 1940) the Latgalian was removed from the school curriculum and was invalidated for use in state institutions.

During the first years of the Soviet rule, the Latgalian language was recognised as one of the Baltic languages and was used in regional papers, but in 1960s it lost its status. Nowadays the legal status of Latgalian is still unclear: despite the fact that the language is not used at schools, the written language is treated as “a historical form of the Latvian language”, its development being guaranteed by the state (Section 3, para. 4 of the State Language Law). Some 150,000 people name Latgalian as their mother tongue. Part of the Latgalian population also claim their ethnic identity differs from that of the Latvians. However, the authorities ignore these manifestations, and since Latvia’s independence had been restored yet nobody has been registered as ‘ethnic Latgalian’.

Self-identification

Since it has been mandatory to specify ethnicity in the Population Register, information on the ethnic self-identification of Latvians is missing. The country’s Central Statistical Board even used the Register’s database while preparing the results of the 2000 census for publication, though the question about ethnic self-identification was

included in the census.²³ According to the census, the number of people identifying themselves as ethnic Latvians is slightly higher than in the Population Register for 2000. But the number of people belonging to minorities is lower (–0.6% among Russians, –0.4% among Belarusians and Ukrainians). 1.3% of the population either chose an ethnic identity which was not included in the questionnaires or refused to answer.

When the results of the census were compared to the information in identification documents, it turned out that the highest level of compliance was among Latvian respondents – 98.7%. Among ethnic Russians it was 96.4%, among the Roma 93.1%, among Jews, Tatars, Lithuanians, Poles, Ukrainians and Germans the results were 93.1%, 91.0%, 89.2%, 87.7%, 85.5%, 85.8% and again 85.8% respectively. 0.8% of registered Latvians identified themselves as Russian, while 2.2% of registered Russians said they identified themselves as Latvians (0.4% as Belarusians, 0.2% as Poles, 0.2% as Ukrainians). 8.5% of Lithuanians, 5.0% of Poles, 2.5% of Belarusians identified themselves as Latvians; 10.3% of Ukrainians, 8.9% of Belarusians and 5.6% of Poles said they were Russians.²⁴ According to Atis Bērziņš, there were many intermarriages in Latvia, which could not but have an impact on the results of the census. Apart from this, the level of cultural assimilation was quite high, which also affected the process of self-identification. However, Atis Bērziņš says there is a problem with such difference in the results. It proves that the system of collecting information about people’s ethnicity needs reforming since it still does not rely on the freedom of choice and a person’s right to self-identification.

Spelling of personal names

Section 19 of the State Language Law stipulates:

(1) Personal names shall be reproduced in accordance with the Latvian language traditions and shall be transliterated according to the accepted norms of the literary language while observing the requirements of paragraph 2 of this Section.

(2) In a person’s passport or birth certificate, the person’s name and surname reproduced in accordance with Latvian language norms may be supplemented by the historical form of the person’s surname or the original form of the person’s name in another language transliterated in

the Latin alphabet if the person or the parents of a minor so desire and can provide verifying documents.

(3) The spelling and the identification of names and surnames, as well as the spelling and use in the Latvian language for personal names from other languages, shall be prescribed by the Cabinet of Ministers regulations.

In 2000 an applicant filed a constitutional complaint with the Constitutional Court asking to declare Section 19 of the State Language Law and Regulations of the Cabinet of Ministers “On the Spelling and Identification of First Names and Family Names”²⁵ unconstitutional. In its judgment of December 21, 2001, the Constitutional Court declared Section 19 of the State Language Law, which provides for a general principle for the phonetic transcription and grammatical adaptation of surnames of other languages, to be in compliance with Article 96 of the Constitution (protection of private life).²⁶ On the other hand, the Court recognised the unconstitutionality of those legal norms that stipulated that the original form of the name be entered on page 14 of passports and not in a closer and more visible place, taking into account the fact that page 3 was the main page in the passport.

Latvian legislation lays down Regulations on Spelling and Identification of First Names and Family Names.²⁷ These Regulations establish the rules for spelling first names and family names and how they should be used in Latvian and spelled and identified in official documents. They make no exceptions for the names of the people belonging to minorities. Foreign names and family names have to be spelled in the Latvian language (expressed with Latvian language sounds and letters) as close as possible to their pronunciation in the original language and according to the rules for spelling foreign proper nouns as well as the norms given in Article 3 of these Regulations. As a result of the transformation, every name and family name has to have an ending corresponding to the Latvian language grammatical system (in masculine or feminine endings according to the person’s gender, no double consonants, etc.) So, for instance, Ivan Ivanov is changed to Ivans Ivanovs, Sergey Sergeev to Sergejs Sergejevs, Dmitry Petrov to Dmitrijs Petrovs and so on.

In 2002 the Parliament adopted amendments to the Law on Identification Documents. As in the previous version of the law, first

names and surnames in personal identification documents must be spelled in accordance with the Latvian language grammatical system. Section 5, para.5 provides that if an applicant wants his or her initials to be transliterated in original or historical form, he or she must provide supporting documentation. In accordance with para.8.1.2 of the Passport Regulations,²⁸ a first name and a surname can be spelled in original form on page 3 of a passport but not in identity cards (these cards should come into existence since January 1, 2009).

The problem of the transformation of names is one of the most complicated in Latvia due to the mass-scale changing personal identification documents: in Soviet times, the data in Latvian passports was provided in both Russian and Latvian, while personal information in Soviet passports issued outside Latvia could be written either in Russian or in Russian and in the official language spoken in this republic of the Soviet Union. At the same time, officially the first names and surnames of both citizens and ‘non-citizens’ is spelled only in the Latvian language.

Some problems may arise if a person wants to verify the historic or original form of his or her first name or surname but received his or her passport after Latvia had restored its independence. During a meeting with Members of Parliament in 2007, the Minister for the Interior, Ivars Godmanis, announced that the original form of a newborn’s first name or surname was that which appears on the birth certificate. If a baby is born in Latvia, then the original form of the name will be spelled in Latvian anyway and so there is no need to make any additional notes.²⁹

It is worth mentioning that there were two cases when people appealed to the European Court of Human Rights.³⁰ But the Court rejected the appeals on the basis that the Latvian spelling of the names did not offend anyone’s personal interests. However, this regulation was again disputed, and one complaint was accepted at the European Court of Human Rights³¹ (this time the argumentation of the damage was more extensive). Another complaint was registered by the United Nations Human Rights Committee³² (the applicant alleged that the regulations violated the constitutionally guaranteed right to private life, as well as the rights of minorities and the ban on discrimination outlined in the

International Covenant on Civil and Political Rights). Apart from this, there is also another subject of debate: whether the regulations violate the right for personal names to be spelled in the minority languages, which is guaranteed by Article 11(1) of the Framework Convention for the Protection of National Minorities.

Street signs and place names

Latvian legislation demands that all place names, street names and other topographical indications be spelled in the state language only. The only exception is made to the so-called Liv Coast (Līvu krasts), where signs may be displayed not only in the Latvian language but also in the Liv language.

Section 18, para.1 of the State Language Law stipulates that all place names in Latvia be in the state language. Regulations of the Cabinet of Ministers³³ stipulate that in the territory of the Liv Coast the place names may be created and used also in the Liv language (para.2). Any administrative territory, settlement, street or property can have only one official name (para.3). Consequently, even those place names in Eastern Latvia which historically were spelled in Russian or in Belorussian (for example, Malinovka) are to be spelled on signs only in the Latvian language. This contravenes Article 11(3) of the Framework Convention for the Protection of National Minorities. Latvia has submitted a declaration on implementation of this provision in accordance with the norms of the Constitution and the national legislation.

Financial support

In its policy of providing support to minorities, the state focuses on financial assistance to cultural associations and non-governmental organisations of the minorities. They used to receive this support from the state budget (earlier through the Secretariat of the Special Assignments Minister for Social Integration Affairs, since January 1, 2009 – through the Ministry of Children, Family and Integration Affairs).

The Ministry of Children, Family and Integration Affairs also deals with the distribution of state grants to non-governmental organisations of minorities. In 2007, 317 grants were allocated for a total sum of 152,822.35

lats (218,317 euros); the government also decreed the allocation of 34,000 lats (48,570 euros) to the Minority Program *Golden Ball* (Zelta Kamoliņš) and 500 lats (about 710 euros) to the German ASNS community in Liepāja. The Roma and the Livs in Latvia also received money 18,000 lats (25,700 euros) and 12,427 lats (17,753 euros) respectively.³⁴ A significant part of the money was allocated for various cultural events such as dance groups and choruses. In 2008 the state allocated 91,059 lats (130,000 euros), plus 20,000 lats (28,500 euros) for Roma integration.³⁵ It is worth mentioning that the Ministry of Culture is trying to distance herself from minorities. In October 2007, Latvia's Minister for Culture, Helēna Demakova, said in an interview: "Do not expect me to join in building the cultural projects of any of the minorities. As the state culture policy – the basic principles, approved by the Cabinet of Ministers – do not provide for involvement of the Ministry of Culture in the creation of such centres, this is not a task of our culture policy".³⁶

However, the oldest association of cultural minorities groups, the Association of the National Cultural Societies, comprising 19 non-governmental organisations, continued to receive financial support from the Ministry of Culture – in 2007 they received 15,000 lats (22,000 euros)³⁷ – in spite of the fact that in 2003 it refused to receive grants from the Secretariat of the Special Assignments Minister for Society Integration Affairs due to a personality conflict.

Two ethnic groups stand apart, the Livs and the Roma, as there are special programmes aimed to help these minorities develop: "The Livs in Latvia"³⁸ (approved first in 1999 and then re-launched in August 2008) and "The Roma in Latvia"³⁹ (adopted in October 2006). The "Roma in Latvia" programme was created to collect information on the situation of Roma, improve the education level, promote employment and fight against existing stereotypes and intolerance. The main aims of the programme "The Livs in Latvia" are to resist assimilation – within the framework of this programme learning the Liv language and summer camps took place; the programme also supported co-operation of the Liv NGOs with NGOs from the countries, where Finno-Ugric languages are being used.

In 2008 the Secretariat of the Special Assignments Minister for Social Integration Affairs presented a draft programme "On the State

Support for Ethnic Minorities in Latvia” for 2010 – 2013.⁴⁰ It aims to determine the conditions of financial support to non-governmental organisations of the minorities, and also to involve such NGOs into decision-making process. The project yet has not been submitted to the government.

The Law on Radio and Television (Section 54, para.5) stipulates that the public remit includes programmes on the life and cultures of minorities living in Latvia. Such programmes are supported from the State budget. Latvian Radio Four, which mainly broadcasts in Russian, regularly presents programmes created by national cultural societies in Estonian, Lithuanian, Polish, German, Belorussian, Ukrainian, Hebrew, Georgian, Armenian, Azeri, Greek and Tatar.

1.2.2. Official Integration Policy

Integration programme

On February 6, 2001, the government of Latvia approved the State Programme “Social Integration in Latvia”.⁴¹ It declares that the process of integration in Latvia must not lead to forced assimilation (P.8) but this remark in the foreword receives no elaboration in subsequent parts of the document (which is dedicated to the problem of language usage, education and the mass media). Such an eclectic style in the programme’s text reveals contradictory views on integration among politicians and in the society. Experts say that “ethnic Latvians see integration mainly as a unilateral process, which involves only members of minorities. The way the issue has been covered in the mass media and by many politicians has caused people to think that integration concerns only Russian-speakers”.⁴² This is probably the result of the contrast between the concepts of ethnic and civic nation in the public discourse. While participating in the “Democracy Monitoring 2005 – 2007” project, the researcher Ilze Brands Kehris concluded that due to the dominant perceptions in society, the notions of ‘political nation’ and ‘citizens’ are not usually used to denote all the residents of Latvia. The situation in 2005 – 2006 was the same.⁴³

Article 114 of the Constitution stipulates that persons belonging to ethnic minorities have the right to preserve and develop their language and their ethnic and cultural identity. The Law on the Free Development and

Rights to Cultural Autonomy for National and Ethnic Groups guarantees all permanent residents the right to celebrate their national holidays, use national symbols and preserve their traditions (Section 8). Apart from this, state institutions must contribute to the development of education, language and culture of the national and ethnic groups living in Latvia (Section 10, para.1). However, some legislative acts appear to contain provisions which could be interpreted as promoting *soft assimilation*. For example, the Education Law and the State Language Law stipulate the use of the state language beyond the sphere of legitimate public interest and limit the use of other languages, including minority languages.

In view of this, those for whom Latvian is not a native language are at risk of social and political marginalisation, since their opportunities are restricted by the law in the sphere of education, employment and contacts with the authorities. Although the legislation does not require individuals to disclaim their ethnic identities, in practice it is trying to influence their choice of a language for school teaching, thus contributing to assimilation tendencies. Legislative acts do not impose bans on the use of the minority languages but still they *place these languages in a position of inequality vis-à-vis the Latvian language*.

This approach to integration relies on the supposed need to protect the Latvian language. The state programme notes that, the state language is both a symbol and an instrument of integration. However, “consequences of historic developments do not allow ensuring the appropriate status for the Latvian language, that is why it deserves special attention. At the same time, the right of the minorities to care of and maintain their language and culture as a basis for ethnic identities should be respected.”⁴⁴

The conceptual approach revealed in the legislation may be described as a pattern which covers *particular spheres* in which linguistic and cultural diversity is found and where the state permits a free choice of language. Such spheres include religious organisations, private life (although this term is interpreted narrowly) and the activities of cultural organisations. It is assumed that beyond those sphere the state language will be used.

In 2003, the Secretariat of the Special Assignments Minister for Social Integration Affairs was established in order to elaborate and

implement the state policy in the field of integration, minority rights, strengthening civil society and the elimination of racial discrimination. In early 2008, the Secretariat released the “Basic Principles for Social Integration Policy 2008 – 2018”. The document came under criticism from the media for not containing enough information on the state language and it had to be revised. A new version of the draft basic principles for social integration policy for 2009 – 2013, which was not submitted to the government until the end of 2008, provides for the establishment of a united society based on the core values. Such values are independent and democratic nation state of Latvia, human dignity, freedom, equality, solidarity, democracy, the rule of law and human rights, including the rights of minorities.⁴⁵ Latvia as a nation state is an independent democratic republic, where the state (Latvian) language is the language of democratic co-operation and communication within the society; state with a unified cultural area, approach to history and a sense of national identity. In January 2009, the Ministry for Children and Family Affairs of Latvia took over the functions of the Secretariat of the Special Assignments Minister for Social Integration and became the Ministry of Children, Family and Integration Affairs.

Financing

The programmes of the state-run Social Integration Fund are mainly aimed at co-financing participation non-governmental organisations in other projects and courses in the Latvian language for adults. In 2007 15,777.97 lats (25,540 euros) were spent on co-financing, while 208,251 lats (297,500 euros) were allocated for the language courses.⁴⁶ In 2008 the figure were 17,369.10 lats (24,810 euros) and 101,684.91 lats (145,265 euros) respectively.⁴⁷ Amid the ongoing financial crisis, the state in 2009 will only co-finance projects initiated by foreign donors.⁴⁸

The Fund basically receives money from the other sources (mainly EU). In 2007 it received 1,310,113.47 euros as part of the EU’s PHARE programme to develop its projects in the sphere of integration and citizenship. The National Agency for Latvian Language Training also received 300,000 euros.⁴⁹

Tolerance

In 2007, the Secretariat of the Special Assignments Minister for Social Integration Affairs co-ordinated a few events related to promoting tolerance. In co-operation with non-governmental organisations the project “Latvia - Equal in Diversity II”, which was financially supported by the European Commission (110,838 euros, 20% of the sum being provided by the Latvian side) has been implemented. As part of the 2007 European Year of Equal Opportunities for All 13 projects of non-governmental organisations were implemented, totalling 67,830 lats (96,900 euros), and those were also supported by the European Commission. Five projects aimed at promoting tolerance were supported by the state budget for a total of 6,667 lats (9,524 euros).⁵⁰ Apart from this, the Social Integration Fund distributed 1,317,472 euros from the EU Transition Programme to support projects on eliminating discrimination and intolerance.⁵¹

In 2008, the Secretariat of the Special Assignments Minister for Social Integration Affairs co-ordinated the implementation of the “Latvia – Equal in Diversity III” project (which also was supported by the European Commission to the tune 170,000 euros, 20% of the sum being provided by the Latvian side) and some projects as part of the Year of the European Intercultural Dialogue (70,000 euros, 50% of the sum provided by the Latvian side).

As we see, impressive sums are spent in Latvia on projects aimed at eliminating intolerance. They are mainly supported by foreign partners. However there are no mechanisms for assessing the effectiveness of these projects. Majority of the projects aim at academic research, as well as promoting information on traditional cultural heritage of different ethnic groups living in Latvia. Such projects are necessary, but they are not able to assist in a real fight against intolerance. Intolerance toward minorities (except Roma and Jews) is not mainly caused by the lack of information, but by different perceptions of linguistic, historical and political problems, as well as by fears and concerns of both minorities and ethnic Latvians.⁵²

1.2.3. Language Policy

Framework legislation

In May 1989 (a year before the Declaration on Independence was proclaimed) Latvia adopted the State Language Law. In March 1992,

three months before it came into effect, amendments to the Law on Languages strengthened the position of Latvian. The amendments introduced language requirements for employees (see below). Since October 1998, Article 4 of the Constitution has been supplemented with a provision stipulating that Latvian is the state language.⁵³

The current State Language Law came into force in 1999. It stipulates that all other languages, except the Latvian language, are defined as foreign languages with no exceptions for minority languages (Section 5). The Liv language is defined as an autochthonous language enjoying some official support (Section 4).

In April 2002, the Constitution was supplemented with a number of new provisions aimed at strengthening the status of the Latvian language.⁵⁴ Now Article 18 stipulates that MPs are asked to promise “to be loyal towards Latvia, to strengthen its independence and to recognise Latvian as the only official state language” when undertaking their duties. Article 21 stipulates that Latvian is the only working language in the Parliament; Article 101 stipulates that Latvian is the only working language in local governments. Article 104 (on the rights to address and receive a reply from the state and municipal bodies) was supplemented with a clarification that “everyone is entitled to receive a reply in Latvian”.

Under Section 1, para.4 of the State Language Law, minorities have the right to choose any language in the private domain. However, the Law permits *proportional* interference into private sphere if legitimate public interests, such as health, security or public order, are at stake (Section 2, para.2). At the same time, the private use of languages in unofficial communication between individuals, internal communication inside ethnic and national groups, as well as in religious activities, cannot be regulated by the Law (Section 2, para.3).

The national poll conducted at the Baltic Institute of Social Science (BISS) with support from the US Embassy in Latvia in April 2004 (1,018 respondents) showed that 19% of Latvians, 87% of Russians and 75% of people belonging to other ethnic groups would welcome or rather welcome Russian becoming the second state language in the Republic of Latvia.⁵⁵

Sanctions

Since 1992, violations of the language regulations have been subject to an administrative penalty. In June 2001, the Parliament adopted amendments to the Administrative Violations Code.⁵⁶ Some of the amendments concern administrative violations in the sphere of language usage and impose fines for the violation of the new State Language Law.

The Administrative Violations Code outlines 14 kinds of language violations (for example, the employment of a person whose knowledge of Latvian does not meet the necessary standards, or not using Latvian according to standards, or not providing interpretation at various events). The fine may be up to 500 lats (about 714 euros) for individuals and up to 1,000 lats (about 1,428 euros) for legal persons. A person may be sentenced to 10 – 15 days of administrative arrest if he or she passes a language examination under a false name (if the person makes another attempt within a year, in accordance with Article 281¹ of the Criminal Law, he or she may face a 2 – 5 year prison sentence).⁵⁷ In addition, one of the violations is “obvious disrespect for the state language” (Section 201³⁶; fine: 250 lats (357 euros). The latest novelty is a punishment for those employers who fail to determine the necessary level of their employee’s proficiency in the state language if these employees communicate with consumers or work with documents.⁵⁸

Supervising bodies

The State Language Centre is a government body responsible for the policy in the field of state language. It controls implementation of the State Language Law and other acts in this field. In accordance with the Regulations by the Cabinet of Ministers on the State Language Centre,⁵⁹ its inspectors are empowered to visit state, municipal and private bodies, meet officials, employees and self-employed persons, require to stop violations; they also can summon suspected violators to the State Language Centre, as well as check the validity of the state language proficiency certificates.

Until November 2001, officials from the State Language Centre had the right “to withdraw and check state language proficiency certificates”. This provisions was interpreted as the right to require the

holders of such documents to take additional Latvian language tests. The legislation has been amended after the views by the UN Human Rights Committee in the case of *Ignatane v. Latvia*;⁶⁰ since 2001 there is no right to require additional tests. The Committee found that in this case, a decision by a single inspector had *de facto* overridden a decision of the whole commission on the issuance of the state language proficiency certificate.

In August 2007, the Minister for Justice Gaidis Bērziņš, told journalists that the State Language Centre might be merged with the Naturalisation Board in 2009. But in August 2008 it was instead announced⁶¹ that the State Language Centre would join the State Language Agency (which provides consultations and analyses the language situation), while the State Language Certification Unit of the Centre for Curriculum Development and Examinations, which deals with examinations and the language proficiency certificates necessary for employment, would be attached to the Naturalisation Board.

In recent years, the State Language Centre has been receiving substantial funding. In 2007 it received 203,138 lats (290,197 euros), in 2008 290,862 lats (415,517 euros), in 2009 289,077 lats (412,967 euros).

In 2006, the State Language Centre received 414 complaints and carried out 1,308 verification procedures. In all, 5,642 people were tested. The Centre considered 557 administrative cases and imposed 553 fines totalling 8,760 lats (12,514 euros).⁶²

In 2007 the State Language Centre received 579 complaints and carried out 3,803 verification procedures. In all, 5,908 people were tested. The Centre considered 2,063 administrative cases and imposed 721 fines totalling 12,320 lats (17,600 euros).⁶³

1.2.4. Citizenship Policy

Citizenship and naturalisation

Latvia was annexed to the Soviet Union in 1940. Latvia declared its independence on May 4, 1990 and *de facto* restored it in August 1991, after the failed Moscow coup. On October 15, 1991 the Latvian Parliament passed the Decision “On the Renewal of the Rights of the Citizens of the Republic of Latvia and on the Fundamental Principles

of Naturalisation”⁶⁴, which deprived one third of all Latvian voters, mainly non-Latvians, of the right to receive citizenship automatically (see below). The decision was based on the strictest concept of pre-war citizenship continuity: only those persons who had been citizens of independent Latvia, and their descendants, had their citizenship restored.

Now it is difficult to estimate the exact number of people who did not receive citizenship because of the aforesaid decision. In early 1994, 1,720,300 permanent residents (67.04% of the 2,566,200 population) of Latvia were registered as citizens. Latvia’s population had shrunk since 1990 due to emigration: according to the State Statistical Board, in 1991 the country’s population had been 2,667,900. This means that almost 35% of Latvian residents in 1991 (more than 900,000 people) did not become citizens: the 1,720,300 people who had registered as citizens by 1994 represent only 64.48% of the Latvian population in 1991.⁶⁵

The Citizenship Law was adopted in 1994. Initially, it imposed special quotas for naturalisation:

- 1) The first to undergo the naturalisation procedure (since February 1, 1995) were descendants of Latvians and Livs, residents of pre-revolution/pre-war Latvia, people who were brought to Latvia during World War II forcefully, those who graduated from a Latvian-language secondary school, those who were citizens of Lithuania or Estonia by 1940, the spouses of Latvian citizens.
- 2) Natives of Latvia under the age of 20 have been able to apply for naturalisation since 1996; persons under 25, since 1997; persons under the age of 30, since 1998. Those aged 40 or below have been able to apply since 1999, the rest starting in 2000.
- 3) Those who arrived in Latvia as minors have been allowed to apply for naturalisation since 2001; those who were under the age of 30 at the time they came to Latvia, since 2002; and the rest, since 2003.

Under pressure from the EU and the OSCE High Commissioner on National Minorities, in 1998 amendments were made to the Citizenship Law. These amendments abolished the quotas.

Under the latest version of the Citizenship Law (Section 2), Latvian citizens are:

- persons who were Latvian citizens on 17 June 1940, and their descendants;
- ethnic Latvians and Livs;
- women whose permanent place of residence is Latvia and who had lost their Latvian citizenship after marriage;
- persons who have completed a full educational course in general education schools in which the language of instruction is Latvian;
- persons who have acquired Latvian citizenship by naturalisation;
- children of Latvian citizens or orphans found in the territory of Latvia whose parents are unknown.

In order to apply for naturalisation one must (Section 12):

- have domicile in Latvia for not less than five years calculated from 4 May 1990;
- have a legal source of income;
- pass naturalisation tests;
- give a pledge of loyalty to Latvia;
- pay a state fee.

To pass the naturalisation tests, an applicant must know (Section 12, para.1, subparas.2 – 4):

- the Latvian language;
- the basic principles of the Constitution;
- the text of the national anthem and the history of Latvia.

Level of fluency in the Latvian language is established by the Law (Section 20). A person is fluent in the Latvian language if he or she:

- completely understands information of a social and official nature;
- can freely talk about, and converse and answer questions on topics of a social nature;
- can fluently read and understand any instructions, directions and other text of a social nature;
- can write an essay on a topic of a social nature given by the commission.

The Law also provides for exceptions from the testing (Section 21). Persons who have acquired primary, secondary or higher

education in educational institutions with the Latvian language of instruction shall be exempt from the test for fluency in the Latvian language. The Cabinet shall prescribe special procedures for testing the knowledge of persons who have been declared disabled. Persons who have attained the age of 65, are exempted from the written part of language testing.

The children of a naturalised person who are under the age of 15 and who permanently reside in Latvia also acquire Latvian citizenship with their parent. Above the age of 15, they have to go through the naturalisation by themselves (Section 15).

Persons shall not be admitted to Latvian citizenship through naturalisation who:

- have, by unconstitutional methods, acted against the independence of the Republic of Latvia, the democratic parliamentary structure of the State or the existing State power in Latvia, if such has been established by a judgment of a court;
- after 4 May 1990, have promoted fascist, chauvinist, national-socialist, communist or other totalitarian ideas or incited ethnic or racial hatred, if such has been established by a judgment of a court;
- are officials of state authorities, administration or law-enforcement institutions of a foreign state;
- serve in the armed forces, internal military forces, security service or police (militia) of any foreign state;
- after 17 June 1940, have chosen the Republic of Latvia as their place of residence directly after demobilization from the armed forces of the USSR (Russia) or the internal military forces of the USSR (Russia), and who did not, on the day of their conscription into service or enlistment, permanently reside in Latvia;
- have been employees, informers, agents or safe house keepers of the USSR (Latvian SSR) KGB, or of the security service, intelligence service or other special service of any other foreign state, if this fact has been established in accordance with the procedures prescribed by law;

- have been punished in Latvia or some other state for committing an offense which is also a crime in Latvia at the moment the Citizenship Law came into force;
- after 13 January 1991, have worked against the Republic of Latvia in the Communist Party, the Working People's International Front of the Latvian SSR, the United Council of Labour Collectives, the Organisation of War and Labour Veterans, the All-Latvia Salvation of Society Committee or their regional committees or the Union of Communists of Latvia.

Upon submitting an application for naturalisation, a person shall pay the state fee, in the amount specified by the Cabinet.⁶⁶ In 2001 the standard naturalisation fee was reduced from 30 lats (43 euros) to 20 lats (29 euros). Low-income applicants, unemployed, those from families with three or more children, pensioners, some disabled persons, students have to pay a reduced fee of three lats (4 euros). Politically repressed persons, some disabled persons, orphans and those living in social shelters are exempted from the fee.

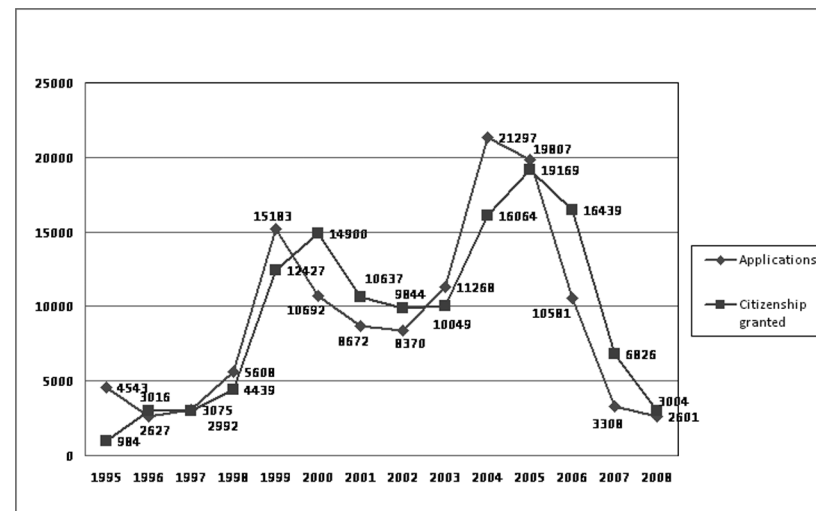
There are certain procedural rules concerning the application for naturalisation.⁶⁷ Since June 2001, graduates of minority schools who have passed the Latvian language examination with a mark of at A, B or C (and, until August 2006, D) are not required to take the language test for naturalisation. Those who received a grade of E or F (and, since August 2006, D) are required to take the tests (in 2008 these represented 41.1% of the total).⁶⁸ Since August 2006 the applicants have no more than three attempts to pass the exams. If they fail, they may submit another application only after a year.

The regulations provide for exemptions for different categories of the disabled.⁶⁹ In particular, disabled people in Category One are exempt from language testing.

As provided for by the Administrative Violations Code, a person who makes an attempt to pass a naturalisation test under a false name, may face up to 15-day arrest. If the person makes another attempt within a year, in accordance with Article 281¹ of the Criminal Law, he or she may face a sentence up to 2 years in prison (or five years if the motive was self-enrichment).

The naturalisation process began in Latvia on February 1, 1995. As of December 2008, 127,632 naturalisation applications had been received. 130,790 people (including children of the naturalised) were granted citizenship (see Diagram 1). Between October 5, 1995 and January 1, 2008, the number of 'non-citizens' fell from 731,078 to 372,421. Thus the naturalisation process reduced the number of 'non-citizens' by only 36%, even if we presume that all those persons naturalized had been 'non-citizens' (the remaining decrease could be explained by emigration, negative population growth and taking foreign citizenship, mainly Russian). There were two peaks in the naturalisation process: in 1999 – 2000, probably as a result of the abolition of quotas, and in 2004 – 2005 (presumably because Latvian citizenship then became EU citizenship).

Diagram 1.
Dynamics of the naturalisation process (applications, citizenship received)



Source: *The Naturalisation Board*⁷⁰

In 2008, 2,601 applications were received (21% fewer than in 2007); 3,004 people were granted citizenship of Latvia (56% fewer than in 2007). This is a record low since 1995 and 1997 (before the quotas were abolished).⁷¹ This decline can be explained by the introduction of a non-visa regime for 'non-citizens' who want to travel to the countries of the Schengen area (in 2007) and to Russia (in 2008), and also by the fact that the majority of the highly-educated people had already passed the naturalisation procedure (here we see an evident correlation between the number of people with higher education and those who passed naturalisation tests at the first attempt).⁷²

The Cabinet of Ministers approves the lists of naturalized persons (Section 17, para.2). In November 2004 it refused to grant citizenship to Yuri Petropavlovsky, a Latvia-born ethnic Russian, who had received higher education in Latvian and who had passed all naturalisation tests. Petropavlovsky was one of the leaders of the movement for the protection of minority schools; he also announced that he would stand for election to the Riga City Council as soon as his citizenship was granted. When Petropavlovsky appealed, a Latvian court ruled that since the government had passed a political and not an administrative decision, it would not consider his complaint. In June 2008, the European Court of Human Rights declared the case admissible.⁷³ The applicant noted that the denial of citizenship was a sanction for using his freedom of expression and freedom of assembly and represented a violation of Articles 10 and 11 of the European Convention on Human Rights, while the decision of the court not to consider his complaint proved that there was a lack of effective means of human rights protection (Article 13 of the European Convention on Human Rights).

Under pressure by OSCE and after the referendum in 1998, the Citizenship Law was supplemented with a new provision on a special procedure for granting citizenship to the children of 'non-citizens' and stateless persons, born in Latvia after August 21, 1991, (Section 3¹). Until the moment a child has reached 15, an application for the acquisition of citizenship may be submitted by the parents. If they have not done so, then a minor, upon attaining the age of 15 years and before he or she is 18 years old, has the right to acquire the citizenship of Latvia under this procedure, if he or she can prove proficiency in the state language.

This procedure cannot be used by minors sentenced to prison terms of more than 5 years.

This procedure entered into force in February 1999. By January 31, 2009 7,728 children had been recognised as citizens of Latvia. As of July 1, 2008, 15,457 children resided in Latvia who were born in 1992 – 2008 and who were 'non-citizens' or stateless.⁷⁴

In September 2008, the Ombudsman recommended that the procedure be simplified for children born in Latvia; he recommended that they receive citizenship at birth together with their birth certificates.⁷⁵

The Citizenship Law states that citizens of Latvia cannot possess dual citizenship (Section 9, para.1). The only exemption for this applies to citizens of Latvia and their direct descendants, who left Latvia from June 17, 1940 to May 4, 1990 and were registered by July 1, 1995. In March 2008 the Secretariat of the Special Assignments Minister for Social Integration Affairs suggested an amendment to the Law⁷⁶, which prohibited dual citizenship only for naturalized persons while allowing it for descendants of the Latvian citizens (including children born in families of Latvian citizens and foreign nationals). The initiative was brought about by the large number of Latvian citizens who had moved abroad to work and who had started families there.

Section 24 of the Citizenship Law states that, Latvian citizenship can be revoked by the decision of a court, if an individual has acquired the citizenship of another country, had served in armed forces or law enforcement agency of another country, or had given false evidence in order to receive the citizenship. Between January 1, 1999 and January 31, 2009, 664 people were deprived of the Latvian citizenship in this way.⁷⁷

Status of 'non-citizen' in Latvia

The legal status of people who were not recognised as citizens remained unclear until 1995. By that time numerous laws and other legislative acts had been passed which imposed restrictions on those people. Only in April 1995 was the Law on the Status of those Former USSR Citizens who do not have the Citizenship of Latvia or that of any Other State adopted. The Law introduced a special legal status of 'non-citizens'. It defined the status of those people who had registered domicile in Latvia on July 1, 1992 and who did not have citizenship of

Latvia or any other country (except for some retired army officers and members of their families).

The Latvian authorities and the Constitutional Court say that 'non-citizens' are not Latvian nationals and are not considered stateless according to international law.⁷⁸ The Constitutional Court mentioned that the Republic of Latvia recognises a certain legal link with 'non-citizens', and that this status cannot therefore be revoked due to permanent residence abroad (unless a 'non-citizen' receives a foreign nationality).

'Non-citizens' have rights akin to citizens, for example, the right to reside in Latvia without visas or residence permits. In some cases 'non-citizen' status can be revoked, if an individual has acquired the citizenship of another country, or if he or she has served in the army or given false evidence in order to gain the status; such decision can be appealed against in court (Section 7). In 2002 – 2007, 1,663 'non-citizens' were thus deprived of their status.⁷⁹

In accordance with some legislative acts, some rights and opportunities are reserved only for citizens. This includes political rights (the right to participate in elections, establish political parties) and social and economic rights (land property rights in some territories, public and private sector careers in some professions, pension for work periods accrued during the Soviet period outside Latvia). Some of these rights are also guaranteed to the EU citizens if they reside in Latvia, but they are not granted to 'non-citizens'. As of March 2008, there were 75 differences in rights between citizens and 'non-citizens', mainly relating to careers in the public sector.⁸⁰

In September 2008, the Ombudsman completed an investigation into the differences in rights between citizens and 'non-citizens'.⁸¹ The Ombudsman found that some restrictions on non-citizens are not proportional, such as the ban on non-citizens from working as barristers, patent lawyers, from receiving the first category licence for security work and from being the head or a member of the board of detective agencies. He also found disproportional restrictions on obtaining property in cities by 'non-citizens'. The Ombudsman recommended to verify whether these restrictions, which do not apply to EU citizens, are justified.

Opinion of citizens and 'non-citizens' of the protection of human rights in Latvia

The national telephone survey conducted by the Baltic Institute of Social Sciences at the request of the National Human Rights Office in July – August 2006 (1,004 respondents) showed that 48% of ethnic Latvians, 40% of ethnic Russians and 43% of other ethnic non-Latvians described the protection of human rights in the Republic as 'very poor' or 'rather complicated'; 48% of Latvians, 55% of Russians and 53% of other non-Latvians were quite positive about the issue and said all problems could be settled over time; 51% of citizens and 52% of aliens were satisfied with the way their rights were protected, while 46% and 44% respectively did not like the situation at all. In Latgale, where a big part of the population belong to the minorities, most of the respondents approved the situation (62%), while in Kurzeme 54% of the respondents viewed human rights protection policies in Latvia negatively.

A big part of the respondents believed a political situation to be the major cause of human rights violations (34%), however different ethnic groups viewed the issue differently: 40% among ethnic Russians and other non-Latvians believed so, 29% among ethnic Latvians, 32% among the citizens and 42% among the aliens.

In comparison to the results of the previous years, we can see a positive tendency: in 1996 the situation with human rights protection in Latvia was evaluated as positive by 28% of the respondents, and in 1998, 2000 and 2006 by 29%, 34% and 45% respectively.

When asked about their personal experience, 18% of the respondents said they had faced violations in the field of social benefits (8% of ethnic Russians, 14% of citizens and 3% of aliens). Ethnic Russians and other ethnic non-Latvians had faced violations in employment more often than ethnic Latvians (40% of Russians, 32% of other non-Latvians, 20% of Latvians, 28% of citizens, 37% of aliens), in education (17% of Russians, 22% of other non-Latvians, 8% of Latvians, 11% of citizens, 16% of aliens), and in respect of freedom of opinion (27% of Russians, 8% of Latvians, 14% of citizens, 35% of aliens).⁸²

1.3. Fundamentals of Migration Policy

1.3.1. Legal Bases for the Stay of Aliens

The Immigration Law regulates the entry and residence of aliens (citizens of other states and stateless persons) in the Republic of Latvia. Section 4 of the Immigration Law stipulates that an alien must possess a valid travel document, visa or residence permit (except for EU citizens and citizens of other states having visa-free regime with Latvia), health insurance and sufficient financial means. The Immigration Law does not regulate the residence of 'non-citizens' of Latvia as they are not considered aliens (Section 1, para.1).

Aliens, on presentation of a valid visa, may enter and stay in the Republic of Latvia for up to 90 days within a six-month period (Section 11, para.1). An alien is permitted to stay longer than 90 days within a six-month period if he or she has received a residence permit.

There are two types of residence permits in Latvia: temporary and permanent (Section 22, para.1). Temporary residence permits are issued to those persons who have relatives among the permanent residents of Latvia, those employed or involved in business activities in Latvia (Section 23, para.1). Permanent residence permits are issued due to marriage, to the parents of pension age of citizens or 'non-citizens' of Latvia, to aliens who have lived in Latvia for five consecutive years, minor children of permanent residents and to those who were either citizens or 'non-citizens' of Latvia before they applied for a residence permit. (Section 24, para.1).

In most cases permanent residence permits are issued to those foreigners who are fluent in the Latvian language (Section 24, para.5), otherwise an alien may stay in Latvia with a temporary residence permit. The knowledge of Latvian language will have to correspond to stage B of the first level, which is the second lowest level of skills in the state language.⁸³

A temporary residence permit can be annulled (Section 35 para.1), *inter alia*, if an alien has entered into a sham marriage in order to obtain it; if the bearer of the permit works without work permit; if he or she stays outside Latvia for three consecutive months or more than six non-consecutive months within a year (except for cases, where the absence is

declared in due order and there is a documented good reason for it). A permanent residence permit can be annulled (Section 36 para.1), *inter alia*, if a foreigner stays outside Latvia for six consecutive months or more than 30 non-consecutive months within five years (except in cases where the absence is declared in due order and there is a documented good reason for it).

In September 2004 Alexander Kazakov, an activist for the Staff for the Protection of Russian Schools, was expelled from Latvia. Kazakov was born in Latvia and worked there; in the early 1990s he left to work in Russia and received Russian citizenship. He was married to a Latvian citizen, and thus had a residence permit to stay in Latvia. In August 2004 his wife died. On September 3 Kazakov was informed that his residence permit had been annulled and that he had been placed on Latvia's list of persons banned from entering the territory. Kazakov was detained and expelled immediately.

Although the Senate of the Supreme Court of Latvia found the decision unjustified on February 24, 2006, the Minister for Foreign Affairs again included Kazakov in the list of *personae non gratae* (under Section 61, para.7 of the Immigration Law, a man or a woman identified as *persona non grata* cannot appeal this decision.) So Kazakov cannot visit Latvia despite the fact that his elderly mother lives there.

In 2008 the Office of Citizenship and Migration Affairs issued 12,379 temporary and 8,896 permanent residence permits.⁸⁴

1.3.2. Special Groups of Aliens

According to Section 34, para.1, subpara.9 of the Immigration Law, an alien can be denied a permanent residence permit if he or she has received payment for leaving his or her place of residence in Latvia with the aim of taking up permanent residence abroad. This rule applies irrespectively of whether this compensation has been paid by the institutions of the state of the Republic of Latvia, local authorities, or by international (foreign) funds or institutions. Aliens who were under age when they received such payment are exempt from this rule, as are aliens who have returned any payment received. Before the new Immigration Law took effect in 2002, even the fact that an alien had returned any such payments did not grant him or her the right to

receive a residence permit. This rule refers primarily to people who had served in the Soviet army and who received compensation payments for leaving their dwellings as they moved to other republics in the former Soviet Union.

In June 2006, the Parliament adopted the Law on the Status of Long-term Residents of the European Community in the Republic of Latvia. This Law contains legal norms arising from the EU Directive concerning the status of third-country nationals who are long-term residents. The Law prescribes certain privileges for those who are not EU citizens, but have continuously and legally resided in the territory of the Republic of Latvia for at least five years. Thus, the Law applies to permanently residing foreign citizens, stateless persons and 'non-citizens'. The Parliament decided to use its right prescribed in the Directive and introduced special integration requirements – a person applying for the status must receive a state language proficiency certificate. In September 2008 the Ombudsman announced that this demand was disproportional.⁸⁵

1.3.3. Illegal Aliens

Since Latvia joined the EU in 2004, the situation with illegal aliens in the Republic has improved. There exist clearly defined guarantees regarding expulsion, better conditions of confinement and effective procedure of judicial appealing against detention. However, some decisions cannot be appealed through the courts, which cast doubt about the right to a fair trial. Some examples of this are mentioned below, such as a decision taken on forceful expulsion according to Section 47 of the Immigration Law. Other decisions on expulsion, for instance those taken by Border Guards in a border zone acting under Section 46 of the Immigration Law can also not be appealed.

Section 41, para.1 of the Immigration Law stipulates that if an alien is illegally staying in Latvia, a special order should be issued requiring him or her to leave the territory within 7 days. The person is also informed that he or she will be banned from entering Latvia within the next three years. The order may be appealed against by submitting application to the Head of the Office of Citizenship and Migration Affairs (in such case the order is being suspended). A decision made by

the Head of the Office of Citizenship and Migration Affairs may also be appealed against in court, which however does not mean that the order may be suspended (Section 42).

If the order is not abided by, then the person is subject to forceful expulsion and is banned from coming to Latvia for the next 3 – 5 years. This decision cannot be appealed (Article 47).

The Border Guards and the police have the right to detain aliens (except those who are under age 14; Section 51). An alien is subject to administrative detention for up to 10 days; for further detention a judge of the city or district court must issue a sanction. The judge may initially authorize the extension of period of detention for up to 2 months, however, the Border Guards and the police can submit an application on the extension of detention period, and the total period of detention pending expulsion may not exceed 20 months (Section 54). A decision on detention can be revoked by the city or district court, but the latter's decision – by regional court (Section 55).

Detained foreigners are accommodated in special detention premises or centres (Section 59). There is currently one such centre – the Illegal Immigrant Temporary Accommodation Institution in Olaine (supervised by the Riga Board of the Border Guards).

In 2007 the authorities issued 81 orders on leaving and made 186 decisions on forceful expulsion.⁸⁶ 247 foreigners were detained, 155 expelled, 175 were placed in the detention centres.⁸⁷

1.4. Fight against Ethnic, Racial and Religious Discrimination on the State Level

1.4.1. Legislation

Discrimination

Article 91 of the Constitution states that, “[a]ll human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind.”

This provision is developed in other legislative acts. Under the Law on Free Development and Rights for Cultural Autonomy of National and Ethnic Groups, residents of the Republic of Latvia are guaranteed

equal human rights according to international standards (Section 1) regardless of their ethnic origin. Section 3 of the Law guarantees all permanent residents equal rights in the sphere of employment.

Section 4, para.2 of the Law on Judicial Power states that a court shall adjudicate a trial irrespective of the origin, social and financial status, race or nationality, sex, education, language, attitude towards religion, type and nature of occupation, place of residence, or the political or other views of a person. Similar provisions included into the Administrative Procedure Law (Section 6) and the Criminal Procedure Law (Section 8).

Article 7 of the Labour Law guarantees everyone equal rights to employment, to an equitable, safe work environment that is not harmful to health, and to fair payment for work; such rights are guaranteed without any direct or indirect discrimination in regard to race, skin colour, sex, age, disability, religious, political or other conviction, ethnic or social origin, material or family status, sexual orientation *or other status*. This principle also applies to the state civil service (Section 2, para.4 of the State Civil Service Law).

Section 29 of the Labour Law prohibits direct and indirect discrimination (paras. 5 and 6) and also defines harassment as a form of discrimination (para.7), and prohibits the instruction to discriminate (para.4). If the discrimination ban is violated, the law guarantees financial compensation for pecuniary and moral damages, the sum of the compensation being defined by the court. Section 9 also prohibits victimisation – the creation of adverse consequences for someone as a reaction to his or her use of legal guarantees to obtain redress.

Section 3 of the Education Law stipulates that every citizen of Latvia, every person who is entitled to a ‘non-citizen’s passport, every person who has received a permanent residence permit, and citizens of European Union countries who have received temporary residence permits as well as their children, shall be equally entitled to acquire education irrespective of their social or material status, race, ethnicity, sex, religious or political conviction, health, occupation and the place of residence. A ban on discrimination is also included into Section 3, para.2 of the Children’s Rights Protection Law.

The Law on Social Security (Section 2¹) prohibits direct or indirect discrimination in regard to race, ethnic origin, skin colour, sex, age, disability, health, religious, political or other conviction, ethnic or social origin, or material, family or other status. It also prohibits harassment and the instruction to discriminate.

The Advertising Law prohibits advertising which expresses discrimination against a person on the grounds of race, skin colour, sex, age, religious, political or other convictions, national or social origin, material status or *other circumstances* (Section 4, para.2, subpara.1).

The Consumer’s Rights Protection Law (Section 3¹, para.1) prohibits direct or indirect discrimination on the grounds of sex, racial or ethnic origin. It also prohibits harassment and the instruction to discriminate. If the discrimination ban is violated, the law guarantees financial compensation for pecuniary and moral damages (the sum of the compensation is set by the court). The Law also prohibits victimisation – the creation of adverse consequences for a consumer due to the use of legal guarantees. The Parliament approved similar amendments to the Civil Law⁸⁸ in the first reading in November 2006. Latvia is also to adopt a law prohibiting discrimination against individuals who are engaged in business activities. A draft law⁸⁹ was submitted to the parliamentary committees in February 2009.

Language is not explicitly mentioned as a prohibited ground for discrimination. Nevertheless, discrimination on the grounds of language is included in these ‘other circumstances’ referred to in normative acts and the Constitutional Court has ruled that it is prohibited.⁹⁰

The legislation aimed at fighting against discrimination has been amended in recent years due to the implementation of two EU directives Ministers (2000/43/EC and 2000/78/EC). But Latvia adopted only the basic norms and rejected the idea of a more integrated approach, in particular the adoption of a framework law on discrimination which would also take into consideration the conventions of the Council of Europe and the UN.

In 2003 the court decreed that a black applicant should be compensated for the offense against his or her dignity if an advertising campaign incites negative attitude towards black people.⁹¹ This precedent concerned a pre-election campaign which provoked negative stereotypes about the black residents of Latvia.

Article 204¹⁷ of the Administrative Violations Code stipulates a fine of between 100 lats (about 143 euros) to 500 lats (715 euros) for violating the discrimination law. The Criminal Law (Article 149¹) envisages fines for repeated (within one year) discrimination on the basis of racial or ethnic origin or other discrimination prohibited by law. For the same deeds under aggravating circumstances (e.g. if substantial damage has been caused, violence committed, if there has been deception or threats, or if an act has been perpetrated by a group of persons or by a public official), the code provides for more longer sentences, up to 2 years in prison.

According to Article 29 of the Labour Law, an employer shall bear the main burden of proof if there is alleged discrimination. The same principle can be found in the Consumer's Rights Protection Law. Until the amendments to the Civil Law are approved, the burden of proof in other civil cases rests with the plaintiff (Section 93 of the Civil Procedure Law). The Administrative Procedure Law insists on impartial investigation (Section 103); therefore the burden of proof does not lie with the applicant: the court decides which side has to prove certain facts and the court is itself entitled to search for evidence.

Violence

The number of incidents caused by racial or ethnic hatred has increased in Latvia recently. Skinheads demonstrate the most violent attitude towards visible minorities. However, the police usually describe such incidents as disorderly conduct or physical injury and ignore the racist motivation. Under Section 48, para.1, subpara.14 of the Criminal Law, since November 2006 racist motivation is held to be an aggravating circumstance in case of any violation.⁹²

In March 2006, the Riga Regional Court gave a suspended sentence (from 6 months to 1 year) to three men, who in July 2005 attacked a black US embassy employee, broke his nose and injured his arm. The attackers shouted in English "Latvia is for white people!" In all eight men took part in the attack, but only three of them were found guilty not only of the assault but also of inciting racial hatred, an accusation which was denied by the defendants.⁹³ Similar attacks in 2005 concerned a cook in an Indian restaurant and a rabbi.

In December 2006 the Riga Regional Court gave a 4-year suspended sentence for an attack on two students from Sri Lanka.⁹⁴

2007 was the first time when two men were sentenced to real imprisonment (6 and 8 months) for attacking a member of the African-Latvian friendship organisation Afrolat.⁹⁵

In October 2007 two underage Roma girls were attacked not far from their house. Though some of the witnesses said the attackers shouted "Blacks, you have spoiled our lives!" the incident was originally qualified as disorderly conduct.⁹⁶ In October 2008, the case was submitted to the court with a qualification of incitement of racial hatred aggravated by violence: the four suspects were also incriminated in an attack on two Armenians in February 2008.⁹⁷

1.4.2. Specialised Institutions Charged With Fighting Discrimination

In July 2005 some amendments were made to the Law on the National Human Rights Office, which was proclaimed as a specialised state institution to fight discrimination. In 2007, the Office was brought into the Office of the Ombudsman, and in accordance with Section 11, para.2 of the Ombudsman Law, the Office is responsible for fighting against discrimination. The Ombudsman has the right to file a civil lawsuit or administrative application to a court to protect the interests of an individual who has suffered from discrimination (Section 13, paras.9 – 10).

In 2007, the Ombudsman received 112 written and 192 oral complaints about discrimination, while 42 more cases were opened at the initiative of the Ombudsman's Office.⁹⁸ 40 written and 13 oral complaints, as well as one own-initiative case was about racial and ethnic discrimination, while 3 written and 17 oral appeals dealt with language discrimination. In the first half of 2008, 186 complaints of discrimination were received.

In April 2007 after the application of the Ombudsman the Centre for the Protection of Consumer Rights imposed a fine of 5,000 lats (7,143 euros) on a network of shops trading in construction materials for an advertising billboard depicting a black man saying in poor Latvian that he would like to repair a house. The decision was disputed in the court.⁹⁹

In March 2008 the Ombudsman asked a computer company to change its advertising slogan, “Blacks work while whites rest”.¹⁰⁰

In January 2009, the Ombudsman accused the Ryanair airline of indirect ethnic discrimination for offering electronic registration only for Latvian citizens.¹⁰¹ The company admitted the violation and promised to improve the situation.

In August 2008, the Ombudsman started investigations into the case with a billboard in Jūrmala which had the inscription, “Only a pig has the right to litter wherever it wants”. Although people of different ethnic origins lived in the block of flats where the billboard was installed, the inscription was only in Russian. The Russian-speaking residents took it as ethnic discrimination.¹⁰² However, the case was closed and the residents were offered to appeal to a court.

The Secretariat of the Special Assignments Minister for Social Integration Affairs used to deal with anti-discrimination policy. For economic reasons, the Secretariat’s department for European anti-discrimination policy was closed in 2007, and its functions handed over to the department on ethnic minorities. Since January 2009, these functions were taken over by the Ministry of Children, Family and Integration Affairs.

1.4.3. Discrimination in Public Opinion

Surveys show that the problem of discrimination is likely to be widely spread.

A national survey conducted by the Baltic Institute of Social Sciences at the request of the US Embassy in Latvia in March-April 2004 (1,000 respondents) showed that 53% of ethnic Latvians believe their ethnic origin plays a big role in their lives, while 30% of ethnic Russians and 24% of other non-Latvians think the same.¹⁰³

A national telephone survey conducted by the Baltic Institute of Social Sciences at the request of the National Human Rights Office in July-August 2006 (1,004 respondents) showed that 23% of all the respondents believed they had suffered from unjustified or insulting treatment over the previous three years (11% on the grounds of ethnicity). 18% of ethnic Russians, 12% of other non-Latvians and 8% of Latvians said they had faced ethnic discrimination. Only 29% of the

respondents asked the specialised institutions for help. 38% of those who did not ask for help said they had no confidence in state institutions. 22% simply did not know where to go. The same survey showed that 72% of ethnic Russians, 61% of other non-Latvians and 38% of Latvians believed the issue of racial equality to be very important. 47% of the citizens and 74% of those who are not Latvian citizens said the problem was of utmost importance for them.¹⁰⁴

The national survey conducted by the SKDS sociological research centre in November 2007 (1,110 respondents) showed that 33.8% of the respondents agreed or would tend to agree that different ethnic groups should have a different range of rights in society (33.4% of Latvians and 33.2% of Russians).¹⁰⁵ Apart from this, 53.9% of respondents believed discrimination to be a pressing issue; 32.3% of them thought the labour market was the most vulnerable to discrimination. 25% of Latvians and 36% of non-Latvians said cases of racial and ethnic discrimination were evident.¹⁰⁶

According to the results of the Eurobarometer survey, conducted at the request of the European Commission in February – March 2008 (1,004 respondents – only citizens of Latvia and of other EU states), 14% answered they had suffered from discrimination over the previous year (2% of the respondents said it was discrimination on the grounds of ethnic origin), 61% said the authorities did little to fight discrimination, while 65% admitted they did not know their rights in case of discrimination.¹⁰⁷

The results of a national poll conducted among employers (6,066 respondents) and employees (10,177 respondents) in 2006 – 2007 by five higher education institutions with financial support from the European Social Fund were that 84.9% of employers believed that Latvia provided equal opportunities in employment to everyone, irrespective of the poor knowledge of the state language. Only 50.9 % of the employees agreed with this proposition. 93.1% of the employers and 77.3% of the employees said the people in Latvia had equal opportunities irrespective of their ethnicity.¹⁰⁸

The results of a survey conducted by the Leverhulme Centre for Research on Globalization and Economic Policy (School of Economics, University of Nottingham)¹⁰⁹ in December 2005 found

that approximately one tenth of the Latvian population was ready to emigrate (the national poll was conducted by the Centre for Marketing and Opinion Research; 1,060 respondents). Russian-speaking respondents in the 35–44 age group were twice as likely to want to leave the country than ethnic Latvians. The reason is that knowledge of the Latvian language is essential for getting a good job, especially in the public sector. After graduating from minority schools, one is frequently well-educated but one's language is not recognised in employment. This naturally increases people's desire to emigrate. These poll results represent a clear indicator of discrimination in employment.

Abstract tolerance is important for society. According to the national survey conducted by the Baltic Institute of Social Sciences in March–April 2004 as part of the EU PHARE programme (1,018 respondents), almost all Latvians and non-Latvians agreed that it was necessary to respect the national cultures, religions and traditions of all residents of Latvia, even if they differed greatly from theirs. 93% of ethnic Latvians and 97% of non-Latvians subscribed to this view. However, further questions showed that the number of people with xenophobic or even segregation views was quite high, especially among ethnic Latvians. 94% of the respondents belonging to the minorities agreed that the state should protect various cultures and traditions in Latvia, while only 67% of Latvians said they liked the idea. 49% of Latvians and 78% of non-Latvians approved the co-existence of different cultures on the territory of Latvia. 29% of Latvians and 10% of non-Latvians believed that people of different ethnic identity should live separately. Only 21% of ethnic Latvians answered they would welcome a Russian as their close relative, while 53% of non-Latvians said they were ready to have a Latvian relative.¹¹⁰

The national survey conducted by the SKDS sociological research centre in August 2005 (1,016 respondents) showed that almost half of ethnic Latvians (46%) agreed or would tend to agree that a large number of the Russian-speakers presented a threat to the Latvian language and culture. Only 33% of Latvians believed that Russian-speakers were loyal to the state (while 70% of the Russian-speaking respondents said they did).¹¹¹

According to a survey conducted by the Laboratory of Analytical and Strategic Studies in Riga (at the request of the State Regional Development Agency), 53% of residents of Riga would not like to live as neighbours to the Roma, to migrant workers (33.7%), to Muslims (25.5%) and to people of different race (18.4%).¹¹²

The SKDS sociological research centre conducted an opinion poll in 2003 dedicated to the situation of the Roma in Latvia. The results of the poll are as follow: 9.2% said they would leave a cafe if a Roma man or woman entered; 18.8 % said they would leave a market if they encountered a Roma there. 58.4% of respondents said they would think twice before employing a Roma or would not do so at all. 56.7% would not like to live with Roma as neighbours. The survey showed a negative attitude toward the Roma: they were called 'cheaters' (71.6%), 'lazy' (51.8%), 'liars' (48.5%), 'dirty' (40.8%) and 'inclined to crime' (39.5%).¹¹³ Ethnic Russians (27%) and members of other minorities (25%), more often than Latvians (20%), agreed that it was quite difficult for the Roma to gain access to social aid. Ethnic Russians (49%) and members of other minorities (47%), more often than Latvians (42%), believed special measures were needed to improve the socio-economical situation and education of Roma in Latvia.

The Social Alternative Institute released a survey conducted as part of the EU Transition Programme in 2008 (1,000 respondents): 56.9% of the respondents (67.2% of ethnic Latvians and 43.1% of non-Latvians) were negative about the arrival of migrant workers in Latvia, while 26.5% of respondents were positive about the issue and 16.6% found it hard to answer the question.¹¹⁴

PART II.

SPECIFIC ISSUES CONCERNING THE REALISATION OF CIVIL AND POLITICAL RIGHTS

2.1. Participation in Political and Public Life

Politics

Freedom of association in Latvia is regulated by Article 102 of the Constitution: “Everyone has the right to form and join associations, political parties and other public organisations”. Nevertheless, the Political Parties Law stipulates that only Latvian citizens (not less than 200) have the right to form political parties (Section 12). Though ‘non-citizens’ can join a political party after its foundation, at least half of a party membership must be Latvian citizens, otherwise the party shall be dissolved (Section 26 para.3).

The restoration of Latvia’s independence was followed by the emergence of several political parties supported mainly by people from minorities. Those parties were always represented in the parliament and in many local governments. At present the following political parties representing minorities have seats in the Latvian the parliament (100 seats): the Concord Centre (*Saskaņas Centrs*) or SC (18 seats) and For Human Rights in United Latvia (*Par cilvēka tiesībām vienotā Latvijā*), abbreviated PCTVL (5 seats). PCTVL is also represented in the European Parliament (1 of 9 Latvia’s seats). These political parties are also represented in the municipal governments of the largest cities: in Riga City Council (60 seats) PCTVL has 8 seats and SC 7 seats; in Daugavpils (15 deputies) 1 and 4 seats respectively; in Liepāja (15 deputies) – 2 and 1 seats respectively, in Jelgava (15 deputies) the parties have 1 seat each; in Jūrmala (15 deputies) 0 and 3 seats respectively, and in Rēzekne (13 deputies) 1 and 3 respectively.

The following fact should be noted: PCTVL emphasises that it is supported by the Russian community,¹¹⁵ while CS presents itself as the only political party in Latvia where ethnic Latvians and Russian speaking Latvians work together.¹¹⁶

In July 2008, the Enterprise Register rejected to extend the registration of the For Motherland party because the term of submission of documents for registration had expired. Most of the party’s voters were people from minorities. The party was not represented in the Parliament but its representatives were in 2005 in Riga among the candidates for the elections to local governments in the same list as the representatives of Latvian Socialist Party. This list received 11.6% of votes and 8 deputy seats out of a total of 60. The Register’s decision was appealed in court.

In August 2008, the Enterprise Register, following a report by the Security Police, revoked its decision on the new registration of the Latvian National Democratic Party (LNDP) due to the claims that the registration documents had been forged. This party is known as a radical party which advocates the empowerment of minorities. It was not represented in the Parliament or in municipal governments, but in 2005 its representatives stood for elections in Liepāja in the list of PCTVL members. This list received 9.7% of votes and 2 deputy seats out of 15. The Register’s decision was appealed in court.

Elections

Before 2002, in order to be registered for parliamentary or municipal elections, every candidate was obliged to submit a copy of the state language proficiency certificate (highest level) if he or she had not received his or her education in Latvian.

In May 2002, the Parliament abolished these state language requirements for candidates. The amendments were made following the decisions of the UN Human Rights Committee¹¹⁷ and the European Court of Human Rights.¹¹⁸ According to these organisations, there were human rights violations when the State Language Centre conducted additional state language checks on those candidates who had received their certificates earlier. The earlier certificates were cancelled and the candidates were struck off the list. Since the law was amended, every political candidate now conducts a self-assessment of his or her proficiency in Latvian and indicates his or her language level in his or her registration documents (Section 11, para.4, subpara g. of the Saeima Elections Law: Section 17, para.3, subpara.g, of the Law on the Elections of City, Regional and Parish Councils).

Parliament

Out of the 100 members of the Saeima (the Latvian Parliament) elected in 2006 only 18 (15 ethnic Russians, 1 Jew, 1 Karelian and 1 German) indicated that they belonged to minorities. Four members did not indicate their ethnic origin.¹¹⁹ Twenty of these 22 members who either did not indicate their ethnic background or who indicated that they belonged to minorities were elected from the lists of the two parties, PCTVL and SC, who are known for advocating minority rights. There were almost no candidates from minorities on the lists of other parties which received seats in the Saeima: one MP of ethnic Russian origin was elected for the Union of Greens and Farmers, while another MP who had not declared his or her ethnicity was elected for the Latvian First Party / Latvian Way.

In 2002, 21 members belonging to minorities, or those who did not indicate their ethnic background, were elected to the Parliament;¹²⁰ in 1998, the Parliament had such 16 MPs.¹²¹ Nevertheless, after the restoration of independence of Latvia, the parties supported by minorities were not in the governing coalition.

Municipalities

After the restoration of Latvia's independence, the representatives of minorities participated actively in municipal politics, especially in the big cities and in the municipalities with a large number of non-Latvians. Nevertheless, after the restoration of independence of Latvia, the parties supported by minorities were in the governing coalition of Riga City Council only once (2001 – 2005).

According to the data of Latvia's Central Election Commission, among the members of municipal councils elected in 2005, ethnic Latvians made up 82.6%; Russians, 4.4%; Poles, 0.8%; Byelorussians, 0.4%; and those who did not mention their ethnic background, 10.6%.¹²²

Among the members of municipal councils elected in 2001, ethnic Latvians made up 92.4%; Russians, 4.4%; Poles, 1.1%; Lithuanians, 1.0%; Byelorussians, 0.7%; and others, 0.4%.¹²³

According to a 2001 survey,¹²⁴ in rural areas, persons belonging to minorities accounted for 6% of deputies in local councils and 12% of supporting staff, while in towns they accounted for 12% of deputies and

11% of supporting staff. In most cases, the percentage of ethnic non-Latvians in municipal governments is smaller than their percentage in the population (see Table 3).

Table 3.

Ethnic non-Latvians' participation in district councils and city councils in 2001 (data on some municipalities were unavailable)

Ethnic background	Total figure			Percentage		
	Residents	Deputies	Personnel	Residents	Deputies	Personnel
Latvians	935,288	575	1,594	65.12	91.41	89.5
Russians	336,587	39	122	23.44	6.2	6.85
Byelorussians	53,016	1	16	3.69	0.16	0.29
Ukrainians	27,106	1	12	1.89	0.16	0.67
Poles	40,881	10	25	2.85	1.59	1.4
Lithuanians	22,617	2	7	1.57	0.32	0.39
Others	20,640	1	5	1.44	0.16	0.29
Total	1,436,135	629	1,781	100	100	100

Source: for the data on the number of residents in district and town councils: *Statistical Yearbook of Latvia, 2001. Riga: 2002*; for the data on the number of members of councils and personnel: A. Pabriks. *Occupational Representation and Ethnic Discrimination in Latvia. Riga, 2002. Pp. 15 – 24*

On January 1 2009, a new Law on Administrative Territories and Populated Areas came into force, which significantly reduces the number of local governments. As a result, on June 6 2009, elections were held in 9 of the country's biggest cities and in 109 regions, instead of in 7 of the biggest cities and 523 towns and districts as was the case in 2005 (the municipal structure in the biggest cities is different from that in municipalities in the other regions). The reform envisages the merging of towns and the nearby parishes into regional municipalities. Considering that most of Latvia minorities are concentrated in cities, the share of non-Latvians in the new municipalities will be smaller than in the old cities, and their parties will probably have fewer seats on the new councils.

Other public organisations

Ethnic non-Latvians rarely become members of different supervisory and controlling bodies, related to the interests of minorities. Thus for example, before October 2007, non-Latvians were not elected to the National Radio and TV Council, with the exception of one person of Liv origin.¹²⁵

Another example is the Council of the Social Integration Foundation. The main task of this organisation is to distribute funds from the state budget and foreign donations to various projects on integration. Under the Social Integration Foundation Law, its Council comprises six ministers, a representative of the President, five representatives of municipal governments (one from each region) and five representatives of non-governmental organisations (Section 9, para.1). The Law does not guarantee the representation of ethnic non-Latvians in the Council.

Public life**Non-governmental organisations**

Freedom of association in Latvia is defined by Article 102 of the Constitution: “Every individual has the right to unite with other individuals into societies, political parties and other public organisations”. Section 23 of the Law on Societies and Foundations states that a non-governmental organisation must be formed by at least two physical or legal entities. The law does not set any restrictions in connection with citizenship, language or ethnic background. Section 53 provides that a non-governmental organisation can be liquidated by a court decision (in particular, if the organisation’s activities violate the Constitution or laws of Latvia).

In January 2005, the Regional Administrative Court overturned the decision of a lower court which had imposed an administrative fine on Yuri Petropavlovsky, one of the leaders of the Staff for the Protection of Russian Schools. The fine had been imposed following a report by the Security Police saying that the organisation had not been officially registered. The court noted that the law did not state that any person wishing to make use of his or her freedom of association is obliged to set up and register a non-governmental organisation – the founders of

the Staff have the right to decide whether to register as a legal entity or not for their social activities.

Public events

Section 11 of the State Language Law stipulates that public events organised by private individuals and organisations do not have to be carried out in the state language. Governmental Regulations, however, limit the force of this general rule. Private persons, companies or associations are obliged to translate information regarding the legitimate interests of society, as well as information about the event itself, into the state language. This regulation is not applied to meetings, rallies and pickets (Section 11, para.4).

Contacts with authorities

Article 104 of the Constitution stipulates that everyone has the right to address submissions to state or municipal institutions and to receive a materially responsive reply. In 2002 a phrase was added to this article stating that everyone has the right to receive a reply in Latvian.¹²⁶

The legislation does not guarantee the right to use languages other than the state language for communication with the authorities. It also directly *prohibits* the use of other languages in written communications with official bodies. This rule is also applied in regions where the share of the non-Latvian population is significant or even *dominant*.

The state language law *does not allow* the state, municipal or judicial authorities to accept written applications, complaints or proposals from private persons in any language other than Latvian, except for extraordinary situations (addressing the ambulance, informing about violations of the law, addressing fire protection service, emergency service, etc.) (Section 10, para.2). Documents ‘in foreign languages’ can be received only together with their certified translations into the state language (Section 10, para.3). Outgoing correspondence shall be only in the state language (Section 8, para.1). Any violation of this regulation is subject to an administrative punishment.

Public information from state and municipal institutions, judicial bodies, state and municipal enterprises (if the stake of the government or a local government exceeds 50%), can be issued only in the state language (Section 21, para.1). Some exceptions are made for information on international activities, unexpected situations, epidemics and dangerous infection diseases, etc. The use of other languages is permitted in information material disseminated for physical and legal persons if they request it (para.3 of the Regulations on language use in information¹²⁷). In December 2008, administrative fines were introduced for officials who disseminate information written in the minority languages where the legislation required this information to be in the state language only.¹²⁸

In 2007, the Latvian Ombudsman said that he had received many complaints from prisoners over discrimination. They complained that the state authorities refused to accept applications and complaints which were not in Latvian.¹²⁹ The Ombudsman said that within the current legislation two solutions are possible: translators in prisons financed by the state and Latvian language courses for prisoners.

2.2 Freedom of Speech, Freedom of Information, Freedom of Assembly

Freedom of speech, incitement of ethnic hatred

Article 100 of the Constitution provides for: “Everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express one’s views. Censorship is prohibited”.

The Law on the Free Development and Rights to Cultural Autonomy for National and Ethnic Groups stipulates that any actions aimed at spreading ideas about national superiority or ethnic hatred shall be punished in accordance with the law (Section 16).

Section 78 of the Criminal Law provides for punishment for actions which are deliberately aimed at the incitement of national,

ethnic or racial hatred. The maximum punishment is imprisonment up to 3 years, and under certain circumstances up to 10 years (if the actions were connected with violence, fraud, threats; if they were committed by a group of people, a state official or a senior officer; or if they were committed with use of automatic data processing). Section 150 envisages punishment for insulting the religious feelings of others and for incitement to religious hatred. The maximum punishment is imprisonment up to 2 years, and under certain circumstances up to 4 years (if the actions were connected with violence, fraud, threats; if they were committed by a group of people, a state official or a senior officer; or if they were committed with use of automatic data processing).

The evaluation of these actions requires quite high standards of evidence: to obtain a conviction, the prosecution must prove direct intent aimed at the incitement of hatred. This is why the number of cases of incitement of hatred is relatively small.

Table 4.

Treatment of cases of incitement of ethnic hatred (Section 78 of the Criminal Law), 2003 – 2007

Year	Refusal to initiate a case	Initiated cases	Submitted to the prosecution	Reconsidered or handed to other jurisdiction	Terminated
2003		1	1		
2004		1			
2005	17	13	7		3
2006	10	14	8	2	3
2007	6	16	7	5	3
Total	33	45	23	7	9

Source: Security Police and Prosecutor’s General office¹³⁰

Table 5.
Incitement of hatred, statistics (penalised activities), 2003 – 2007

Year	In internet	In newspapers	Writings on walls, objects	Aggression (attacks)	Others
2003	1				
2004	1				
2005	6	3	1		3
2006	4		2	6	2
2007	8			6	2
Total	20	3	3	12	7

Source: Security Police¹³¹

Table 6.
Statistics, cases of incitement of hatred: causes and ethnic origin of defendants, 2005 – 2007

Year	Total number of initiated cases	Caused by		Ethnic origin of defendants		
		Ethnic hatred	Racial hatred	Latvians	Russians	Not mentioned
2005	13	12	1	7	6	0
2006	14	5	9	6	5	3
2007	16	12	4	8	0	8

Source: Security Police¹³²

In 2005, the Latvian courts used Section 78 of the Criminal Law to sentence 7 persons (4 aged 14 – 17, 3 aged 18 – 24). They all received suspended sentences. In 2006, one person (aged 18 – 24) was prosecuted and received a suspended sentence. In 2007, 6 people were sentenced (1 aged 14 – 17, 4 aged 18 – 24, 1 aged 25 – 29): 4 of them received suspended sentences and 2 were sent to prison. In some cases the prosecutor's office imposed a fine without court proceedings: twice in 2005, three times in 2006 and six times in 2007.¹³³

In October 2006, a journalist and former member of the Riga City Council from the PCTVL party was found not guilty of calling for the overthrow of the Latvian government. He had written on an internet forum that the Latvian state was as evil as the Nazi state. The court stated that such

a declaration could not trigger any attempts to overthrow the government. The court of appeal upheld the ruling and the prosecution did not appeal the judgement.¹³⁴

In May 2007, the publisher of a nationalistic newspaper *DDD*, together with two journalists, were found not guilty of incitement of hatred. In a number of publications of *DDD* insulted Jews and also people who had come to live in Latvia during the Soviet period, calling them 'jackals' and 'occupants'. The court ruled that discussions of historical events and interethnic relations needed different points of view. The courts of appeal and cassation upheld the decision.¹³⁵

In February 2007, a man who called himself a neo-Nazi said in a public discussion that Roma and Jews are not human beings and those who are not human can be killed in ethnic cleansings. The prosecutor's office initially did not press charges on the basis that the man's statements had been ambiguous. However the decision was appealed and the Prosecutor General's office overturned the decision. The case went to trial, the man was convicted and sentenced to 1 year in prison in March 2008 (this sentence took into account that earlier he had received a suspended 1½ year prison sentence for disorderly behaviour¹³⁶). The sentence was appealed but in January 2009 the court of appeal upheld the sentence and even extended it to two years and one month.¹³⁷

In September 2007 a well-known lawyer, Andris Grūtups, published his book *The Scaffold (Ešafots)*¹³⁸ about the trial of SS-Obergruppenführer Friedrich Jeckeln and other German war criminals in Riga in 1946. In his book, Grūtups wrote that the trial had been unfair and that it was merely an act of revenge by a Jewish prosecutor for the death of Jews in the Riga ghetto. The Head of Jewish Communities Council said that the book was an attempt to glorify Nazism and an act of anti-Semitism,¹³⁹ but did not file any claim to the police.

Freedom of information. Mass media

The use of languages in the printed mass media is not restricted by the Law on the Press and Other Mass Media. Section 62 of the Radio and TV Law, which concern state-owned mass media, stipulate that:

(2) Latvian radio and Latvian TV produce their programmes for the first broadcast network as national programs in the state language.

(3) The programs of Latvian radio and Latvian TV in the second broadcast network shall be primarily in the state language. Programs in the languages of ethnic minorities can receive 20% of annual broadcast time, which also includes the broadcast of films, theatre performances with subtitles in the state language.

Private TV and radio in Latvia were also subject to restrictions until 2003: the broadcast time for programmes in ‘foreign’ languages (including the languages of minorities) could not exceed 25% of the total broadcast time. However the Constitutional Court removed these restrictions on the application of opposition members of the Parliament.¹⁴⁰ The court stated that the language restrictions pose a significant limit on the freedom of information. Despite this, in December 2004, the Parliament approved the amendments to Section 19, para.5 of the Radio and TV Law,¹⁴¹ which enabled the government to promote the use of the state language on specific territories. So far the government has not used this right.

In addition, Section 18 para.2 subpara.2 of the Radio and TV Law stipulates that 40% of the European quota (i.e. 20.4% of total weekly broadcast time, the quota for programmes from the EU being a minimum of 51% of all programmes) shall be given to programmes produced in Latvian.

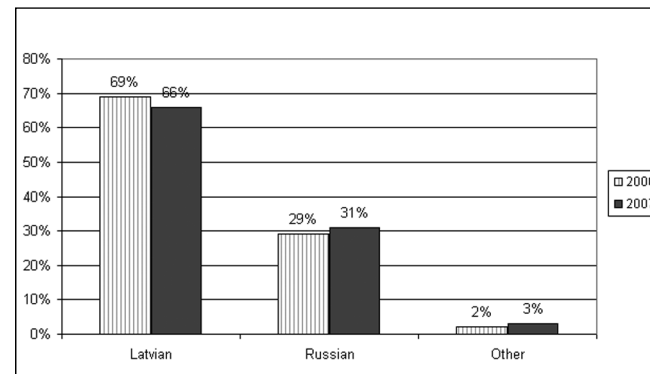
Section 19, para.4 of the Radio and TV Law requires that TV programmes in foreign languages (including the languages of minorities) must have Latvian subtitles. This does not concern live programmes, re-broadcasting, programmes from other countries and educational language programmes. Section 19, para.3 envisages that the films shown on TV shall be dubbed in Latvian or have Latvian subtitles. Children’s films shall be dubbed into Latvian which deprives children from minorities from watching these films in their native language.

Section 19, para.1 of the Law prohibits the broadcast of programmes into two languages without simultaneous translation (either dubbing or subtitles). This regulation is not applied to educational language programmes and music programmes.

In 2008, a draft of a new law on audio and visual mass media was published.¹⁴² The draft envisages the removal of language restrictions in the second network of the state mass media and also in the framework of the European TV quota. It proposes to allow the broadcast of some Latvia-made programmes in other languages in the first network of the

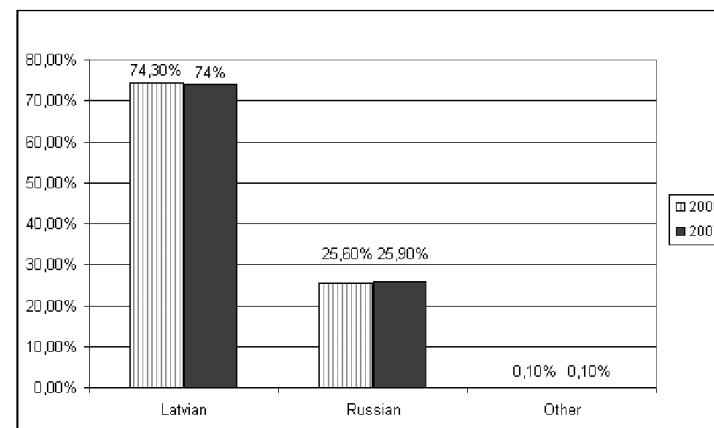
state mass media. It also proposes to allow the use of several languages in interactive live programmes.

Diagram 2.
Radio broadcast time, language percentage 2006 – 2007



Source: National Radio and TV Council¹⁴³

Diagram 3.
TV broadcast time, language percentage 2006 – 2007



Source: National Radio and TV Council¹⁴⁴

Public information

The current legislation allows the placement of notes and other private information written in the languages of minorities in public places. However if the information concerns the legitimate interests of society and is intended for informing people, then it must be available also in the state language (Section 21, para.4 of the State Language Law). Section 21, para.7 contains the following requirements for private individuals: if in the information a foreign language is used together with the state language, then the text in the state language shall not be less readable, smaller or less informative than the text in the 'foreign language'.

Freedom of assembly

Freedom of peaceful assembly is provided for by Article 103 of the Constitution: "The State shall protect the freedom of previously announced peaceful meetings, rallies, and pickets". Section 11, para.4 of the State Language Law stipulates that the use of languages during meetings, rallies and pickets is regulated by the Law on Meetings, Rallies and Pickets. The latter provides for freedom of language use at meetings, rallies and pickets (Section 19).

In 2003 – 2005, the growing discontent with the planned reform of minority-language education resulted in meetings, rallies and pickets. The first meeting was held in May 2003 and involved more than 12,000 people. Soon after that, the Staff for the Protection of Russian Schools was established, an unofficial organisation which campaigned to preserve education in Russian. The members of the staff soon organised a number of campaigns, including meetings, rallies and flash-mobs. The issued leaflets, booklets and produced videos, they even went on hunger strike.¹⁴⁵ In total they held more than 90 protest actions, 32 of which were attended by more than 1,000 people. In some actions, up to 40,000 people took part. Usually the authorities did not grant permission for these actions, and most of the organisers were fined. 39 actions were halted by the police.¹⁴⁶

The government reacted to the campaigns by making amendments to the Law on Meetings, Rallies and Pickets,¹⁴⁷ which restricted the freedom of assembly. The amendments introduced new terms for granting permission for campaigns which in some cases made it

impossible to appeal a refusal before the action itself. Restrictions were also introduced for meetings held near state institutions, while meetings which created not only traffic jams but also disturb pedestrians were also prohibited. However, in November 2006, the Constitutional Court stated that some of the restrictions were unconstitutional, as well as the requirement to ask a local government to grant a preliminary permission to hold a meeting, a rally or a picket.¹⁴⁸

In September 2007, two organisations announced their plans to hold a Russian Rally with slogans "Citizenship for everyone!", "Russian is a state language!", "Education in Russian for Russians", "Latvia is our country!" and "Russians don't give up!" The placard carried an image of a bear with a machine-gun belt and a grenade in its paw. The Ombudsman said that the slogans, no matter how shocking and wrong they seemed, were legal in a democratic society because the wish to enjoy the rights provided for by the law and the Constitution is not punishable until pursued by illegal methods. However, the opinion of Ombudsman is not binding. The Riga City Council prohibited the rally, the court upheld its decision but the decision was appealed. The organisers held a meeting instead of a rally. Before the meeting, the authorities took extraordinary security measures, refusing to let activists from the Estonian organisation Night Watch enter Latvia.¹⁴⁹

2.3. Freedom of Religion

Article 99 of the Constitution and the Law on Religious Organisations provide for the separation of church and state, as well as for freedom of religion and the right to establish religious organisations.

Section 7, para.3 of the Law on Religious Organisations envisages that communities that belong to one confession have the right to establish only one association (church). The practical application of this regulation has led to conflicts between different communities with a decentralised church structure, in particular in Old Believers' communities.

No religion has the status of official religion in Latvia. In practice 'traditional' religions have more opportunities than 'new' ones. In particular, only clerics of the following religions have the right to register

marriages: Lutherans, Catholics, Orthodox Christians, Old Believers, Baptists, Methodists, Adventists and Jewish rabbis (Section 53 of the Civil Law). These differences are regulated by legal acts on the status of the abovementioned confessions. For Catholics, the relevant act is a Concordat with the Holy See¹⁵⁰, ratified in 2002. In 2007, the laws on the Latvian Union of Baptist Communities, the Latvian United Methodist Church, the Union of the Seventh-day Adventist Communities in Latvia, the Latvian Old Believers' Church and the Riga Jewish Religious Community were passed. A draft law on the Latvian Evangelical Lutheran Church¹⁵¹ was adopted on second reading in October 2008, a draft law on the Latvian Orthodox Church¹⁵² was adopted on second reading in October 2007.

The State Language Law does not regulate the use of languages in religious activities (Section 2, para.3), though it envisages that in religious institutions every individual has right to submit an application and communicate in the state language (Section 3, para.2).

In accordance with Section 1, para.1 of the Law on Holidays, Commemoration Days and Celebratory Days, the non-working days are Christmas (December 24 – 26) and Easter. Though the law does not mention the religious character of these holidays, the dates used as those celebrated by Catholics and Protestants but not Christian Orthodox (who use the Julian calendar).

Section 1, para.2 provides that Orthodox, Old Believers and believers of other confessions celebrate Christmas and Easter on the days set by their confessions. However if an employee wants to take a day off on one of these days, his or her employer is not obliged to pay him as if they were holidays. Thus, Orthodox, Old Believers and members of non-Christian communities are in position of inequality.

In 2006, the Cabinet of Ministers decided to make May 5 a holiday. May 4 is the anniversary of the Declaration of Independence and this would have made two holidays in a row. The Cabinet decided to make April 22 a working day in its place, ignoring that that year April 22 was Easter Saturday (Great Saturday) in the Orthodox Church and for Old Believers. The decision was cancelled following numerous protests.¹⁵³

Ethnic Russians (52%) and other non-Latvians (54%) consider the freedom of religion to be a very important issue, more so than Latvians (48%).¹⁵⁴

2.4. Access to Justice

The Civil Procedure Law stipulates that civil proceedings must be held in the state language. When submitting documents in foreign languages the parties are required to attach certified translations of these documents in Latvian (Section 13). The court guarantees the assistance of an interpreter to those who do not speak the state language (but not to representatives of legal entities). By the request of a party to the case, and with consent of the other parties the court is authorised to hold specific legal proceedings in other languages, but the minutes of these proceedings must be kept in the state language. The Administrative Procedure Law contains the same regulation (Section 110), but there the court has the right to provide an interpreter also to a representative of a legal entity.

Section 11 of the Criminal Procedure Law stipulates that criminal proceedings must be held in the state language. A party in a criminal trial who does not speak the state language has the right to use the language he or she knows, and the right to use the service of an interpreter free of charge. All the documents which are to be handed to a given person must be translated into the language he or she understands. Some proceedings (for example, interrogation) can be conducted in another language without the participation of an interpreter but the minutes and other documents of such a procedure must be translated into the state language. In accordance with the State Language Law all documents must be handed to the court or to the prosecutor's office with their translation into the official language, except for complaints if their translation is not necessary for the proceedings.

Requests for free legal assistance must be submitted in accordance with the general rules governing applications to state authorities – such petitions have to be written according to a special form and in the state language (or with a certified translation).

PART III.

SPECIFIC ISSUES CONCERNING THE REALISATION OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

3.1 Education

3.1.1. Legislation Concerning Education in Minority Languages

Education in Latvia is provided to a greater or lesser degree in eight languages of minorities. However, in recent years the government has provided fewer guarantees for this education. Latvian is the main language in the state system of secondary and higher education.

After Latvia became independent in 1919, the government approved the Education Law, which envisaged that children from minorities would have the right to education in their *family language*. There were Russian, German, Jewish, Lithuanian and Byelorussian schools in Latvia. After Latvia was incorporated into the USSR, education in the languages of minorities (except Russian) was abolished. In the Soviet period, Latvia therefore had two education systems – in Latvian and in Russian. In late 1980s and early 1990s, the schools with education in Polish, Ukrainian, Estonian, Romany, Lithuanian, Byelorussian and also Hebrew were opened.

Under the present Education Law, higher education in the institutions established by the state or by local government is provided in Latvian from September 1999 (Section 9, para.1 and para.9, subpara.1 of the transitional provisions). However these educational institutions are allowed to use the languages of the EU in the framework of programmes for foreigners and programmes of international cooperation. These educational institutions are allowed to use the official languages of the EU in other programmes, but the share of these languages in the education process must not exceed 20%. They may also use other languages in the educational programmes of foreign

languages and cultures (Section 56, para.3 of the Higher Educational Institutions Law). In private higher education institutions, the language of education is defined by the founder (Section 9, para.2, subpara.1 of the Education Law).

Primary or secondary educational institutions founded by the state or by local government provide education in Latvian (Section 9, para.1 of the Education Law). An exception is made for educational institutions in which educational programmes for minorities are implemented (Section 9, para.2, subpara.2 of the Education Law). However since September 1, 2004 not less than 60% of curricula (including foreign languages) of these educational programmes must be taught in Latvian (para.9, subpara.3 of the transitional provisions). In private primary and secondary educational institutions, the language of education is defined by the founder (Section 9, para.2, subpara.1 of the Education Law). To acquire basic or secondary education, each student must learn the state language and pass examinations testing his or her knowledge of it. (Section 9, para.3 of the Education Law).

In pre-school institutions, the language of education is chosen by the founder. But the educational programme of such institutions must contain basic knowledge of the state language (Section 20, para.1, subpara.6 of the General Education Law).

Reform of 2004

In 1995, a provision was added to the Education Law which stated that at least two subjects must be taught in Latvian in primary school and three subjects in secondary school.¹⁵⁵ In 1998, the Parliament approved the new Education Law. This Law stipulated that the Ministry of Education and Science was to define the subjects to be taught in Latvian in educational institutions in which educational programmes for minorities are implemented. However, starting from September 1, 2004, even in these institutions, secondary education was to be only in Latvian. In May 2003, shortly before this regulation was to come into effect, a large scale protest campaign started.

In May 2003, the Cabinet of Ministers approved amendments to the Regulations “On the Standard of General Secondary Education”,¹⁵⁶ which envisaged that after the completion of a transitional period (2004 – 2006), in schools where educational programmes for minorities are implemented, no fewer than 5 subjects, chosen by school administration, must be taught in Latvian (Latvian language and literature are not included). Another provision envisaged that not less than 60% of the curricula must be in Latvian. Starting from 2007, all state examinations must be only in Latvian. In August 2003, using the urgent legislative procedure, the Cabinet of Ministers made amendments to the transitional provisions of the Education Law¹⁵⁷, envisaging the status of law for such regulations.

When the Parliament considered amendments to the Law in January of 2004, most MPs voted in the second reading for an even stricter version: the languages of minorities were to be used only for teaching these languages and for the subjects related to the identity and culture of these minorities. The MPs evidently wanted to show that they would not bow to pressure from the numerous protests by which had been organised by minorities (see above). However in the third reading in February 2004, the current version of the law was adopted¹⁵⁸ which provides that not less than 60% of curricula shall be in Latvian and starting from 2007 all state examinations shall be passed in Latvian.

In May 2005, the Constitutional Court ruled on how this regulation corresponded with the Constitution of Latvia and international agreements. Though the Court found that the controversial regulation did not contradict the Constitution or international agreements, it made several points which should be taken into account:

- 1) The Court admitted that Latvia has ethnic minorities and in order to guarantee equal rights to them it can be necessary to provide a differential treatment;
- 2) The Court stated that an efficient mechanism should be created to evaluate the quality of education;
- 3) The Court decided that until September 1, 2007 subjects which are taught in two languages simultaneously (bilingually) can be

included in the 60% share as being subjects which are taught in Latvian¹⁵⁹.

3.1.2. Preschool and School Education

Preschool education

Preschool education is the responsibility of local authorities (Section 17, para.1 of the Education Law). Preschool education is compulsory from the age of 5–6 years. (Section 21¹ of the General Education Law).

As of September 1, 2007, preschool educational institutions were teaching 58,841 children (74.2%) in Latvian; 17,794 children (22.5%) in Russian; 228 children (0.3%) in Polish; and 15 children in other languages. 2,375 children (3%) were educated in *two-language institutions* (with Latvian and Russian groups).¹⁶⁰

School education

The legislation of Latvia ensures neither the establishment nor the preservation of educational institutions in which programmes for minorities are implemented. It is up to the founder to choose a programme (for most public schools the founder is a local government). Quantitative criteria are defined by the Regulations on the minimum and maximum number of students in classes of general educational institutions, groups of preschool training, special educational institutions and classes of social and pedagogical correction of the state and local governments.¹⁶¹ One of the possible problems for schools in which programmes for minorities are implemented can be the small number of students. However, no exceptions for such schools are envisaged: if such school does not meet the criteria, it can be abolished. In such a case, it is not impossible that children who studied in this school will have to go to a Latvian-language school if there are no other schools for minorities.

Table 7.
Number of schools and students in accordance with the language of education

School year	Schools – language of education				Total number of schools	Students – language of education **			Total number of students **	% students who study in Latvian
	Latvian	Russian	Mixed*	Other		Latvian	Russian	Other***		
1991/1992	585	219	178	4	986	183,266	154,736	208	338,210	54.19
1992/1993	623	223	179	4	1,029	181,875	146,457	328	328,660	55.34
1993/1994	652	216	175	5	1,043	191,517	143,904	461	335,882	57.02
1994/1995	679	209	176	7	1,071	199,146	138,002	727	337,875	58.94
1995/1996	699	207	182	6	1,094	209,947	136,740	854	347,541	60.41
1996/1997	719	205	182	6	1,112	219,684	133,882	908	354,474	61.97
1997/1998	728	200	176	6	1,110	228,059	130,912	1,043	360,014	63.35
1998/1999	728	195	145	6	1,074	226,166	120,866	1,173	348,205	64.95
1999/2000	727	189	133	8	1,057	230,239	114,469	1,344	347,052	66.34
2000/2001	724	178	128	7	1,037	232,859	110,629	1,334	344,852	67.53
2001/2002	725	175	122	7	1,029	232,239	103,350	1,352	336,941	68.93
2002/2003	720	166	124	7	1,017	227,552	96,554	1,397	325,503	69.91
2003/2004	729	159	115	6	1,009	219,975	91,209	1,305	312,489	70.39
2004/2005	724	155	108	6	993	214,855	84,559	1,253	300,667	71.46
2005/2006	727	152	97	7	983	205,189	77,471	1,206	283,947	72.26
2006/2007	727	148	92	7	974	194,230	70,683	1,116	266,111	72.99
2007/2008	722	141	88	7	958	181,107	65,402	1,432	250,941	72.17

Notes: * – Mixed schools include two streams: Latvian and Russian.

** – Data on evening school students included up to 1997/1998 school year.

*** – Students who receive education in English are not included.

Source: the Ministry of Education and Science¹⁶²

The largest number of students learning in Russian in 2007/2008 was in Riga: 35,632 (49% of all students). In Daugavpils the figure was 8,606 (77.1%), in Liepāja 3,252 (32.7%), in Jelgava 2,162 (28.2%), in Riga district 2,160 (14.6%) and in Rēzekne 2,078 (43%).

In the mid 1990s, the number of students in all schools fell due to total negative population growth in Latvia. But the number of students who received their education in Russian, as well as the number of such schools, is falling more rapidly. It should be noted that by the 2007/2008 school year, there were no schools with education in the languages of minorities in Kuldīga (8.6% of whose population belonged to minorities as of 1 January 2008), Liepāja (12.2%), Talsi (7.8%) and Ventspils (10.3%) districts. In Dobele (26.3%) and Saldus (15.9%) districts there is education in minority languages only in the 6-9th forms, in Gulbene (14.4%) and Limbaži (11%) districts only the 9th form. (The 6th form is for 12 – 13 year olds, the 9th form for 15 – 16 year olds.)

The share of schools with education in the languages of other minorities, i.e. not Russian, and the numbers of students in these schools, have remained stable. These schools teach less than one percent (0.57%) of students (see Table 8).

Table 8.
Students in schools with education in languages of minorities (except Russian), 2007/2008 school year

	Riga	Daugavpils	Rēzekne	Jēkabpils district	Krāslava district	Total
Polish	281	281	397	85	67	1,111
Ukrainian	239	–	–	–	–	239
Belorussian	82	–	–	–	–	82
Total	602	281	397	85	67	1,116

Source: Ministry of Education and Science¹⁶³

Schools and classes of non-Russian minorities (Jews, Estonians, Lithuanians, Roma) use Latvian or Russian language as the main language of education. This explains why the Ministry included data on the students at these schools (Table 7) in the information about schools with education in Latvian or Russian.

In terms of ethnic origin, it is interesting to look at the statistics of language choice. Latvians and Roma study mainly in Latvian, while Russians, Jews, Belarusians, Ukrainians, Poles, Germans and representatives of other minority groups prefer education in Russian. The number of Lithuanians and Estonians who study in Latvian and Russian is almost equal (see Table 9).

Table 9.
Students in day and evening schools – information about ethnic origin and language of education, 2006/2007 school year

	Total	Study in Latvian		Study in Russian		Study in Polish		Study in Ukrainian		Study in Belorussian		Study in English	
			%		%		%		%		%		%
Total	279,872	204,366	73.02	74,308	26.55	788	0.282	252	0.090	76	0.027	82	0.029
Latvians	180,693	171,131	94.71	9,371	5.19	123	0.068	25	0.014	3	0.002	40	0.022
Belarusians	3,763	934	24.82	2,753	73.16	32	0.850	2	0.053	42	1.116		
Roma	1,410	1,007	71.42	396	28.09	7	0.496						
Jews	563	17	3.02	545	96.80							1	0.178
Estonians	100	52	52.00	46	46.00							2	2.000
Russians	59,173	9,420	15.92	49,551	83.74	73	0.123	97	0.164	30	0.051	2	0.003
Lithuanians	1,901	898	47.24	998	52.50	5	0.263						
Poles	3,818	726	19.02	2,551	66.82	535	14.013	2	0.052			4	0.105
Ukrainians	2,803	439	15.66	2,239	79.88	1	0.036	124	4.424				
Germans	263	93	35.36	159	60.46	8	3.042					3	1.141
Others	1,511	264	17.47	1,211	80.15	3	0.199	2	0.132	1	0.066	30	1.985
Ethnic origin is not mentioned	23,874	19,385	81.20	4,488	18.80	1	0.004	-	-	-	-	-	-

Source: Ministry of Education and Science¹⁶⁴

In the 2007/2008 school year 37,667 people studied in vocational educational institutions. Of these, 2,673 people (7.1%) studied in Russian (according to the quota envisaged by the legislation).¹⁶⁵

Quality of education

The teaching in Latvian of individual subjects to minorities was introduced in 1995. It would therefore have been possible to survey the quality of education for this group before the reform of 2004, but this was not done. In an interview, the head of the State Education Inspectorate, Valda Puiše, said she did not rule out that switching to Latvian might have affected the quality of the education provided to minorities.¹⁶⁶

It is possible to see the trend by analysing the state examination results collected by the Centre for Curriculum Development and Examinations. In 2001 – 2004, students in schools for minorities showed the same or even better progress than students in Latvian schools (the examination results in physics, mathematics, chemistry, and biology – the subjects they studied in their native language). At the same time, their results for subjects taught in Latvian (for example economics and business) were 20% worse on average.¹⁶⁷

A non-governmental organisation, The Association of Russian Culture, Education and Science (Arkona) has studied the quality of education after the reform of 2004, comparing the results of the state exams in 2004 – 2007.¹⁶⁸ Among graduates from schools with education in minority languages, the average grade in mathematics in 2004 was 4% lower than the average grade of graduates from Latvian schools, in 2005 it was 5% lower, in 2006 8.1%, in 2007 9.4%. Grades in English were stable – 6.5%–7.5% lower. History grades were 10% lower than the grades of students from Latvian schools in 2004, and 20.8% lower in 2007.

Teachers and textbooks

The state does not provide any special training to teachers working in schools for minorities, except for training some teachers in Russian language and literature.

In accordance with Section 50, para.3 of the Education Law, teachers in all public schools, including schools for minorities, are obliged to be highly proficient in the official language. This also concerns those teachers who teach their subjects in minority languages. Section 7 of the State Language Law provides that all meetings shall be held in the official language. At the same time the law does not set any requirements about the knowledge or use of the language of a given minority by teachers in schools for minorities.

Most of the textbooks for Russian schools were printed in Latvia. However, the list of the recommended literature on specific subjects lacks books in Russian.¹⁶⁹ Textbooks in the languages of other minorities are printed very seldom in Latvia. Therefore schools have to choose

textbooks in Latvian, even in subjects which are supposed to be taught in a minority language.

Multiculturalism

The Regulations of the Cabinet of Ministers on the standard of primary education, and on the standards of specific subjects in primary education,¹⁷⁰ state that one of the main goals of social sciences is to master the skills of democratic civil participation and the development of a tolerant attitude towards cultural diversity (annex 17, para.2.5). The Regulations on and the standard of general secondary education and standards of specific subjects in general secondary education¹⁷¹ state that one of the main goals of these educational programmes is to develop the social activity of students in a context of maintenance and development of language, ethnic and cultural identity, as well as an understanding of the main principles of human rights, included in the Constitution and other legal acts (para.2.3).

According to the data of the Ministry of Education and Science, in the 2006/2007 school year, 69.4% of students who received their education in Latvian chose Russian as their second foreign language (the first foreign language is usually English).¹⁷² The curriculum related to minority identity is included in the educational programmes for minorities (Section 41, para.2 of the Education Law). As a result, students from minorities who study in Latvian-language schools usually do not study their native language or subjects connected with their own ethnic culture.

On the contrary, it is considered an important priority to teach Latvian to students studying in minority languages. In 1995, a national programme for learning Latvian was established by the government with the assistance of the UN Development Programme (since 2005 this has been undertaken by the National Agency for Learning the Latvian Language). From the very start, the main goal of the programme was to teach Latvian to teachers working in minority schools to prepare them for teaching their subjects in Latvian. The Agency also provides Latvian language education for other adults (mainly working in public sector: firemen, police, etc.); it produces educational materials¹⁷³ and sets examination standards.

The programme of the Agency includes summer student camps and mass media campaigns whose goal is to promote dialogue between ethnic Latvians and minorities.

A study by the Latvian Centre for Human Rights and Ethnic Studies has found that there are very few examples of social interaction between ethnic Latvians and minorities in Latvian textbooks. For example, imaginary children in Latvian text books have Latvian names, while imaginary children in Russian text books will have Russian ones. When representing non-Christian religions, the main focus is on what is unusual from the point of view of Christianity; in the description of Islam, the main focus is on fundamentalism. Migration is always represented as a negative process.¹⁷⁴ When addressing diversity and tolerance, teachers mainly rely on their own experience, only 35% use methodological materials and the information they acquired during advanced training.¹⁷⁵

Private schools

According to Section 23, para.3 of the Education Law, both physical and legal persons have the right to found private educational institutions. Section 9, para.2, subpara.1 provides that the education in private educational institutions can be in languages other than Latvian.

In the 2007/2008 school year, there were 33 private secondary schools with 2,891 students. Of these, 16 provided education in Latvian (1,530 students), 13 in Russian (980 students), 3 had two educational 'streams', in Latvian and in Russian (293 students), and one school taught in English (88 students).¹⁷⁶

According to Section 59, para.2 of the Education Law, private schools have the right to apply for subsidies from the state. However, in its original version this regulation contained a restriction: It was applicable only to the schools which taught in the official language. This restriction was abolished by the Constitutional Court in September 2005¹⁷⁷ following the application of some MPs from the opposition, as the Court found it was in contradiction the principle of equal rights.

At present, the state and the local authorities finance private schools which teach in minority languages. In 2007, the state budget had 1,231,428 lats (1,759,183 euros) for subsidies to private schools, in 2008 1,732,056 lats (2,474,366 euros), in 2009 1,968,284 lats (2,811,834 euros).

3.1.3. Public Opinion and the 2004 Reform

A national poll conducted by the Baltic Institute of Social Sciences supported by the US embassy in Latvia in April 2004 (1,018 respondents) showed the following: the education reform in its current version was supported by 77% of ethnic Latvians, 26% of Russians and 35% of residents of other ethnic origin.¹⁷⁸

Parents of students in schools of minorities were negative about the reform of 2004 (see Table 10).

Table 10.
Parents' attitude towards the education reform in schools for minorities, 2003 – 2004, %

	Completely support	Partially support	Do not support	No answer
Data collected by schools administrations, 2003	38	24	23	15
Data collected by State Education Inspectorate, 2003	23	25	49	3
Data collected by State Education Inspectorate, 2004	6.3	22.6	59.4	11.7

Source: Constitutional Court¹⁷⁹

The data produced by an independent survey conducted by the Baltic Institute of Social Sciences showed an even more negative attitude (see Table 11). Half of the students questioned took part in campaigns against the reform of 2004, and more than half of those who did not take part in protest campaigns say they regret not having done so.

Table 11.
The attitude of students, their parents and teachers towards the education reform in schools for minorities, April 2004, %

	Students	Parents	Teachers
Completely support	4	3	9
Rather support than do not support	11	10	21
Rather do not support	26	28	36
Do not support	59	59	34

Source: Baltic Institute of Social Sciences¹⁸⁰

The language is an important factor of identity of Russian-speaking young people in Latvia: according to the poll, 77% of respondents regard the language as the core of their national identity, while a smaller number of respondents think that the core of their identity is their ethnic origin (54%).¹⁸¹ This means that the reduction of accessible education in Russian is seen by these people as a threat to their identity itself. Though most of the respondents agree that the best advantage of the reform will be higher Latvian language proficiency, most of the headmasters and teachers at the minorities' schools think that the reform will negatively affect both the ability to study the content of specific subjects and also as the emotional state of students.¹⁸² Moreover, headmasters and teachers declared that the reform would also affect the knowledge of the native language. The poll also reveals serious mistakes of the Ministry of Education and Science in teacher training and in methodological literature. Two years before the launch of the reform only 16% of schools were "properly prepared" for it. The students' knowledge (of Latvian) was very poor – only 10% of headmasters, 6% of teachers, 15% of students and 25% of their parents said that their students were definitely ready to follow subjects in Latvian in a secondary school. Only 50% of teachers said that their knowledge was good enough to teach their subjects in Latvian.¹⁸³

3.1.4. Higher Education in Minority Languages

Representation

According to a survey of 2002,¹⁸⁴ the ratio of minorities among the teaching staff of 13 state higher education institutions, who took part in the survey, was about 17%. Two universities which took part in the survey did not have any representatives of minorities in their staff (Stockholm School of Economics in Riga and Vidzeme High School). At the same time in one of the universities (located in Daugavpils where ethnic non-Latvians account for 84% of population) 54.5% of lecturers represented minorities.

Though the data on the ratio of minorities among students is not too reliable, the survey indicates that the percentage of minorities among students in state-funded higher education is not significant: in general they account for about 14% of students. In one of the universities (Vidzeme High School) minorities accounted only for 1.6%, while in another higher education institution (Latvian Maritime Academy) the share of minorities among the students was 40%: this is close to the percentage of minorities in the total population of the country.

Because state higher education institutions do not seem to provide equal opportunities in education to minorities, many representatives of minorities go to private education institutions instead. The ratio of minorities in the educational staff of six private higher education institutions covered by the survey was about 45%. In one of these schools (Riga Teacher Training and Education Management High School) minorities accounted for only 8.5%, while in another institution (Transport and Telecommunication Institute) they accounted for 91%. The data on the ethnic origin of private schools students were not reliable because of 6 institutions only 2 agreed to provide this information: in these schools, minorities accounted for 84.0% and 83.7% of the students. Unlike other private education institutions which took part in the survey, these two schools provided education only in Russian; hence the data cannot represent the situation in private schools in general.

Table 12.

Minorities among teachers and students of higher educational institutions, 2001, %

Legal form	Name	Non-Latvians, teaching staff	Non-Latvians, students
State	Jāzeps Vītols Latvian Academy of Music	11.4	6.7
	Latvian Maritime Academy	21.0	40.0
	Latvian Academy of Arts	4.0	–*
	Latvian Police Academy	–	14.0
	Latvian Sport Academy	23.5	–
	Liepāja Pedagogical Academy	11.9	–
	Stockholm School of Economics in Riga	0	–
	Riga Technical University	30.0	–
	Vidzeme High School	0	1.6
	Latvian Agricultural University	14.9	8.0
	Latvian Academy of Culture	17.0	–
	Latvian Medical Academy	16.2	–
	Daugavpils Pedagogical University	54.5	–
Private	Latvian Evangelic Lutheran Christian Academy	13.0	–
	Riga Institute of Aeronavigation	85.0	84.0
	Riga Teacher Training and Education Management High School	8.5	–
	Transport and Telecommunications Institute	91.0	83.7
	Business Institute RIMPAK Livonija	49.0	–
	Banking High School	25.0	–

Source: A. Pabriks. *Occupational Representation and Ethnic Discrimination in Latvia*. Riga, 2002, available <http://www.policy.lv/index.php?id=102472&lang=en> (01.11.2008). P. 36.

Note: * – means “no data”

In early 2007, journalists from the Russian language media tried to find out the ratio of minorities among students at higher educational institutions. They interviewed students personally and analysed their

names. They came to the conclusion that Russian-speaking students accounted for about 20% of students at state higher educational institutions. The Minister for Education and Science, Baiba Rivža, did not dispute this finding, noting only that the number of graduates from schools with education in Latvian is also higher and mentioning possible reasons for this low figure (different motivations, the fact that Russians prefer private higher education institutions).¹⁸⁵ However, there are likely to be other reasons too. For example, higher education institutions admit students on the basis of their exam results, one of which is the exam in the Latvian language. Until quite recently, examination topics, the level of difficulty and the evaluation criteria were different for students who study Latvian as their native language and for students in schools which provide their education in the languages of minorities. In the 2003/2004 school year, a written part of the exam was introduced which is the same for all schools: in other words the differences were abolished. In the spring of 2007, the Ministry of Education and Science announced its plans to introduce the unified Latvian language exam starting from 2010 – 2011.¹⁸⁶

Private higher education

In early 2008 there were 60 higher education institutions: 34 high schools (including 19 state and 15 private) and 26 colleges (18 state and 8 private).

Though at present the language of education in a private school is chosen by the founder, in October 2008 the Parliament approved in the first reading a new draft law on higher education.¹⁸⁷ Section 6, para.2 of this draft law provides for a single language policy for state higher education institutions and private higher education institutions which receive state subsidies. In all these institutions, the language of education shall be the state language with a few exceptions:

- educational programmes on language and culture learning may be given in foreign languages;
- educational programmes in the framework of international cooperation, agreements with foreign higher education institutions as well as programmes for foreigners can be taught in any of the official languages of the EU.

If these amendments are approved, a private education institution which teaches in a minority language which is not an official language of the EU will not be able to apply for state subsidies. It remains unclear how this regulation will work if it comes into force. Will all these private higher education institutions have to give *all* their educational programmes in Latvian, or only those of them which receive state subsidies?

3.1.5 Education for Adults. Lifelong Education

Advanced training financed from the state and municipal budgets has to be in the official language (Section 9, para.6 of the Education Law). The law does not regulate the language of advanced training and further education programmes financed by private persons.

3.2. Access to Employment

3.2.1. Legislation

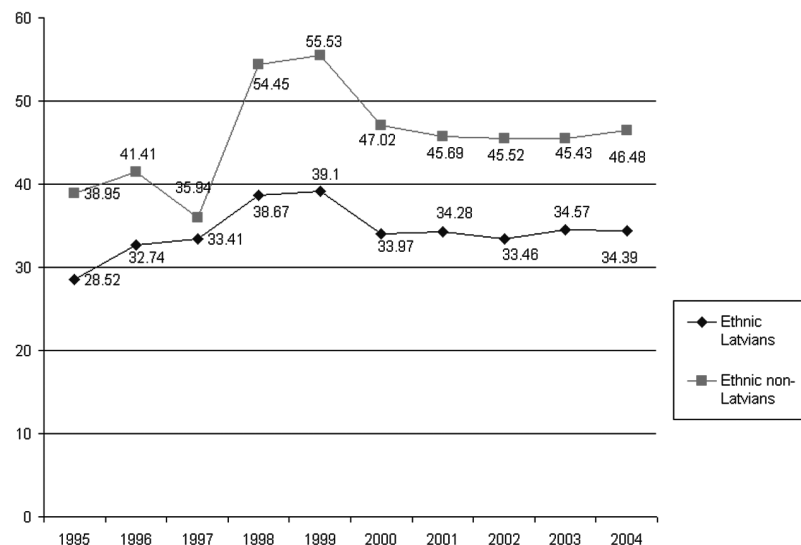
The Labour Law stipulates most labour standards. In accordance with the Law on Support for the Unemployed and Job-seekers, a person can claim the status of unemployed if he or she does not work, does not run any business, does not study at secondary school, and if he or she is between 15 years old and retirement (Section 10). The person loses his or her status of unemployed if he or she twice rejects work offered or does not perform his or her duties as an unemployed person. (Section 12).

3.2.2. Ethnic non-Latvians on the Labour Market

a). Unemployment Rate

The official data on unemployment shows that the problem of unemployment affects non-Latvians more than Latvians.

Diagram 4.
Number of unemployed people registered per 1000 residents



Source: В. Бузаев. *Неграждане Латвии*. – Рига, 2007. С. 81.
(V. Buzayev. *Non-citizens of Latvia*. Riga, 2007. P. 81)

The decline in the number of unemployed among minorities in 1997 is the consequence of a regulation approved by the Latvian government in late 1996. According to this regulation, knowledge of the official language was a compulsory requirement for obtaining unemployed status. Thus the authorities refused to register some unemployed Russian-speakers. This discriminatory regulation was eventually dropped under pressure from international organisations.

According to the data of the State Employment Agency, the share of Latvians among unemployed people has been increasing in recent years, while the share of non-Latvians has fallen or stayed the same.

Nevertheless, the share of some minorities (for example, Russians and Roma) among the unemployed exceeds their share in the total population (see Table 13).

Table 13.
Ethnic origin of registered unemployed people, %

	2004	2005	2006	2007
Latvians	51.4	52.2	53.0	54.2
Russians	33.7	32.2	31.5	31.0
Belarusians	4.4	4.0	4.0	3.8
Ukrainians	2.7	2.6	2.5	2.6
Poles	2.6	2.4	2.4	2.2
Lithuanians	1.5	1.4	1.4	1.4
Jews	0.1	0.1	0.1	0.2
Roma	0.7	0.7	0.7	0.7
Others	1.1	1.1	1.1	1.0
Ethnic origin is not mentioned	1.8	3.3	3.3	2.9

Source: State Employment Agency¹⁸⁸

However the real picture can differ from these official data, since this data covers only those people who addressed the State Employment Agency and were officially registered as unemployed. The statistics does not include those unemployed who did not address the agency or those who were rejected by it.

The data show higher unemployment among ethnic non-Latvians. A survey conducted in 1999 showed that the level of unemployment among ethnic Russians (18%) and other minorities (17%) is much higher than among ethnic Latvians (10%), while among the population of working age 14% of Russians, 12% of other minorities and 7% of Latvians were unemployed.¹⁸⁹ A survey conducted by the World Bank in 2002 also showed the difference in unemployment figures – the percentage of unemployment was 10% for Latvians and 15% for minorities.¹⁹⁰ The data used in Latvia's talks on EU accession were similar: in 2002 unemployment rate among Latvians was 9.9%, but 15.2% among minorities.¹⁹¹

The 2007 survey showed interesting changes in the employment of minorities in Latvia. A shortage of labour resulted from large-scale emigration out of Latvia following EU accession and this improved the situation for minorities on the labour market. While in 2002, the

difference in the level of employment of Latvians and non-Latvians in the age group 15 – 74 was 6%, in 2005 it had fallen to less than 3%. Employment rose mainly (and among women exclusively) thanks to minorities.¹⁹²

Table 14.
Difference in employment ratio between ethnic Latvians and non-Latvians, age group 15 – 74 years, %

Education/year	2002	2003	2004	2005
less than secondary	4.8	1.0	2.1	-0.4
secondary	2.1	1.1	-2.1	2.0
higher	8.9	9.5	5.4	6.4

Source: *Institute for the Study of Labour (IZA)*¹⁹³

While Latvian legislation deprived more than half the country's non-Latvian citizens of the right to work in the state sector, poor knowledge of the Latvian language became another important factor which restricted employment opportunities for many non-Latvians. According to a survey conducted in 2000, among those for whom Latvian was not the native language, 38% non-citizens and 22% citizens would not be able to occupy positions which required the level of Latvian language proficiency stated by the legislation.¹⁹⁴

The official percentage of unemployed Roma is lower (23% Roma in Jūrmala, 10% in Jelgava, less than 5% in other cities), than the data obtained by the leaders of different non-governmental organisations of Roma. According to them only 10%, 5%, 3% or even 1% of Roma in Latvia have permanent job.¹⁹⁵ The European Commission against Racism and Intolerance put the percentage of permanently working Roma in 2001 at 2%.¹⁹⁶

In accordance with Section 9 para.6 of the Education Law, the State Employment Agency is not entitled to conduct advanced training and further education of unemployed people in the languages of minorities. But unemployed people do have the right to get Latvian language courses free of charge.

b). The Latvian Language Factor: Official Requirements

Language requirements

Section 6 of the State Language Law states that employees of state and municipal institutions and enterprises must know and use the state language to the extent necessary for the performance of their professional duties. Employees of private institutions, organisations and enterprises (companies) must use the state language if their activities affect the legitimate interests of the society or if they perform specific public functions.

The Cabinet of Ministers sets the state language proficiency requirements¹⁹⁷ for the performance of professional duties, and the examination procedure for those who did not receive their education in Latvian and did not take the centralised state exam in the Latvian language held in schools for minorities.

The requirements of the Cabinet of Ministers envisage 6 levels of proficiency in the official language. Level “3B” (the highest) is compulsory, for example, for heads of state institutions, lawyers, psychologists, secretaries, school headmasters and their deputies. This level of proficiency implies the ability to “carry on conversation in different styles” and to use different “means of expression”. In the public sector, the level of language proficiency is defined for nearly all occupations. Sometimes these requirements sound rather amusing: for instance, level “1A” is compulsory for *hypnotists* and *ventriloquists* if they are employees of companies in which the greatest share of capital is owned by the state or a local government.

Of 4,997 candidates who took the language proficiency examination in 2006, 1,446 (28.9%) received “1A” and “1B” levels, 1,165 (23.3%) “2A” and “2B” levels, 723 (14.5%) “3A” and “3B” levels and 1,663 (33.3%) failed the exam.

In July 2008, on the initiative of the Ministry for the Interior the language proficiency requirements were relaxed for firemen-rescuers (“2B” instead of “3A” earlier) and border guards (“3A” instead of “3B” earlier) due to lack of manpower, and in spite of objections from the Ministry of Justice.

In the private sector, employers set their own requirements as to the state language proficiency of their employees. In November 2002, a list was approved – an attachment to the above mentioned rules of the Cabinet of Ministers – which defined the required language proficiency for employees in private sector companies if their activities affect the legitimate interests of the society. This list was revised in December 2006 and significantly expanded in August 2008. In accordance with this list, “3B” level is compulsory for advocates and their assistants, “3A” for lawyers, psychologists, doctors and pilots, heads of companies, members of boards and councils of enterprises (“3A” is required only if a person directly communicates with clients). The regulations linked with the expanding of the list will come into force in 2009 – 2010. It is likely that the new requirements will lead to new cases of indirect discrimination and the court will have to evaluate how relevant the language requirements are for this or that profession.

In September 2008, the Ministry of Education and Science proposed a new version of these Regulations,¹⁹⁸ on the basis that language certificates issued earlier would remain valid. It is not impossible that the requirements for some professions will be changed.

In October 2008, the Ministry of Justice proposed adopting amendments to the Labour Law¹⁹⁹ which would oblige employers to mention in labour contracts which level of language proficiency is compulsory for employees.

The legislation does not have make exceptions, not even for the territories where minorities account for the majority of the population.

c). The Latvian Language Factor: Labour Market Competition

Public sector

Statistics shows that minorities have problems finding work in the public sector: in 2002, 35% of minorities in employment worked in the public sector while almost half (49%) of all ethnic Latvians in employment worked in the public sector.²⁰⁰ In 2005, the shares of ethnic non-Latvians and Latvians in public sector dropped to 26% and 38% respectively.²⁰¹

Ministries

The relevant surveys show that in 2001 ethnic Latvians accounted for 92% of the personnel in ministries.²⁰² The percentage of other ethnic groups in the ministries is very small: the share of all the six largest minorities in Latvia in the ministries is much smaller than their share among the population and among the citizens. However in the Ministry for the Interior the share of minorities among the employees (28.3%) is close to the share of minorities among citizens, though much smaller than the percentage of among the whole population.

Table 15.
The percentage of different ethnic groups in the personnel of Latvia’s ministries, 2001, %

Ethnic origin	Percentage among		
	Total population	Latvian citizens	Ministry officials
Latvians	58.8	76.3	92.10
Russians	28.8	17.4	5.70
Belarusians	4.0	1.3	0.30
Ukrainians	2.5	0.4	0.17
Poles	2.5	2.2	0.65
Lithuanian	1.4	0.9	0.23
Jews	0.4	0.3	0.10
Others	1.4	0.9	0.60
Total:	99.8	99.7	99.85

Source: A. Pabriks. *Occupational Representation and Ethnic Discrimination in Latvia*. Riga, 2002. P. 13, 25, available at <http://www.policy.lv/index.php?id=102472&lang=en> (01.11.2008)

Law-enforcement agencies

For a quite long time, minorities have been underrepresented in the judicial system. In early 1994, out of 152 judges in Latvia, 142 were ethnic Latvians, 9 were Russians and one judge was a Pole.²⁰³ According to a survey carried out in 2001, out of 307 judges, working in the 35 courts covered by the survey, only 23 (7.49%) were ethnic non-Latvians (18 Russians, 3 Poles and 2 Belarusians). However in the

same year minorities were much better represented in the state police (34.2% of policemen), and the percentage of minorities among the administration of prisons was even higher than the share of minorities in total population (63.1% of workers).

Table 16.

The percentage of ethnic non-Latvians in courts, police, and prisons administration, 2001, %

Ethnic origin	Percentage				
	Population	Citizens	Courts (covered by the survey) *	Police	Administration of prisons
Latvians	58.8	76.3	92.51	65.8	36.9
Russians	28.8	17.4	5.86	25.0	45.9
Byelorussians	4.0	1.3	0.65	3.0	5.5
Ukrainians	2.5	0.4	0	2.1	4.2
Poles	2.5	2.2	0.98	2.0	5.0
Others	3.2	2.1	0	1.8	2.1
Total	99.8	99.7	100	99.7	99.6

Note: * – the survey covered 35 courts including 5 regional courts.

Source: A. Pabriks. *Occupational Representation and Ethnic Discrimination in Latvia*. Riga, 2002. P. 13, 26, 28, 30, available at: <http://www.policy.lv/index.php?id=102472&lang=en> (01.11.2008)

Private sector

In general, minorities participate fully in the economic activities of the country and are well-represented in the private sector. Nevertheless, a survey of the representation of ethnic groups in Latvia conducted in 2001 revealed a trend towards segregation in the private sector: of 17 large companies questioned during the survey, 5 had none or only very few (2 – 3%) ethnic non-Latvians among the employees; 9 companies did not have representatives of minorities among their top management.²⁰⁴

According to a survey conducted in 2005, ethnic Latvians predominated among highly skilled employees (top managers and

managers), while people from minorities prevailed among less skilled employees, skilled and unskilled workers.

Table 17.

Qualification of employees and their ethnic origin, 2005, %

	Latvians	Non-Latvians
Highly skilled employees	38.5	27.2
Less skilled employees	22.0	23.2
Skilled workers	27.9	34.1
Unskilled workers	11.6	14.2
Total	100	100

Source: Latvia: *Sharing High Growth Dividend. A Living Standards Assessment*. Washington: World Bank, 2006

d). Income Levels and Disparity

The difference in income level between ethnic Latvians and non-Latvians is minimal (see Table 18).

Table 18.

Monthly net income per family member, December 2008, %

	Ethnic Latvians	Ethnic non-Latvians
Up to 100 lats	14.0	13.2
101 – 149 lats	11.3	10.7
150 – 199 lats	14.1	16.7
200 – 279 lats	15.8	15.5
280 lats and more	14.9	14.6
Difficult to say	29.9	29.3

Source: data of SKDS (a sample of 1001 respondents); submitted on request 17.02.2009

The difference is also minimal between ethnic non-Latvian citizens and non-citizens (see Table 19).

Table 19.**Monthly net income per family member, December 2008, %**

	Non-Latvian citizens	Non-citizens
Up to 100 lats	11.6	16.2
101 – 149 lats	8.7	14.4
150 – 199 lats	16.5	17.0
200 – 279 lats	16.8	13.1
280s lat and more	14.4	14.9
Difficult to say	32.1	24.3

Source: data of SKDS (a sample of 1001 respondents); submitted on request 26.01.2009

Using a 10-point scale, Latvians enjoy an average quality of life measured as 5.6, while non-Latvians are at 5.5. The estimation given by ethnic non-Latvian citizens (5.9) is more positive than among non-citizens (5.2).²⁰⁵ Approximately half of ethnic non-Latvians (47% of Russians and 55% of other non-Latvians) agree that their living standards are much better in Latvia than they would be if they were in Russia. 83% of Latvians, 61% Russians and 62% of other non-Latvians tend to support or fully support the statement “I would prefer to be a citizen of Latvia than a citizen of any other country.”²⁰⁶

3.2.3. Labour Market Discrimination

Only a few facts about discrimination in the labour market are known. Here is one of the cases of direct discrimination which was registered in 2006 by the Jelgava City Court.

In November 2005, the State Employment Agency sent a Roma woman who was looking for a job as a shop assistant to her potential employer for an interview. The employer said that she was not eligible for the vacancy because she spoke Latvian with an accent; he did not even look through her documents which proved her qualifications. The woman filed a complaint to National Human Rights Office (the predecessor of Ombudsman) claiming that she had been rejected because of her ethnic origin. The National Human Rights Office

*brought an action on her behalf. The court found direct discrimination and ruled that the defendant had to pay compensation of 1000 lats (about 1,430 euros). The judgement was appealed: a higher court terminated the proceedings due to procedural reasons; the judgement of the court of first instance remained in force.*²⁰⁷

3.3. Access to Social Benefits and Welfare

In general, all residents of Latvia regardless of their ethnic origin, language and citizenship have equal access to social benefits, allowances and services. Section 2¹ of the Law on Social Security forbids any discrimination based on racial and ethnic origin, skin colour, sex, age, disability, health condition, religious, political and other conviction, national or social origin, material or family status or other circumstances. This Section forbids direct and indirect discrimination, harassment and instruction to discriminate. Section 3, para.1 states that the provisions of this law are applicable to all residents of Latvia.

All citizens of Latvia, ‘non-citizens’, foreigners and stateless persons who have a personal code and permanently live in Latvia have the right to state social allowances. Those who have a temporary residence permit are not authorised to lay claims to state social allowances (Section 4 of the Law on State Social Allowances).

In practice, the most significant differences made on the base of citizenship status concern the victims of Stalinist and Nazi repressions. Under the law, only a person who is a citizen of Latvia, Estonia or Lithuania, or who was a permanent Latvian resident as of June 17, 1940, can have the legal status of a person repressed by Nazi regime. There are two exceptions to this rule: permanent residents of Latvia who were repressed because of their ethnic origin, and juveniles who were in prison or in a concentration camp on the territory of Latvia, have the legal status of politically repressed persons regardless of their citizenship status (Section 4 of the Law on the Determination of the Status of Persons Politically Repressed by the Communist and Nazi Regimes). Where Stalinist repressions are concerned, the rules are different: permanent residents of Latvia who are not Latvian citizens

are recognised as politically repressed if they suffered repression on the territory of Latvia after May 8, 1945 (Section 2).

It should be noted that the Senate of the Supreme Court (the court of cassation) has revised its practices regarding citizenship criterion. Whereas in 2002 the court considered the citizenship of a potentially repressed person at the moment of repression,²⁰⁸ in 2008 the court started to consider the citizenship of a candidate at the time he applied for the status of politically repressed person.²⁰⁹ That is why people who become citizens through naturalization now have the right to claim the status of politically repressed persons as citizens by birth.

3.4. Access to Health Care System

The Law on Medical Treatment does not guarantee a patient the right to use his or her native language when he or she contacts state or private medical institutions. Section 20 only states that the information on diagnosis, examination and treatment plans, as well as other possible methods of treatment and forecast, must be 'understandable' without direct reference to the language. A draft law on patients' rights²¹⁰ says that any discrimination is forbidden but does not contain any reference to the language as the ground for discrimination. This draft law was approved in the second reading by the Parliament on December 20, 2007.

In practice doctors almost always use Latvian and Russian to ensure better contact with their patients. However most doctors received their medical education before 1990, when the knowledge of Russian was de facto compulsory. Some doctors who completed their education after 1990 have a worse command of Russian. The media have reported several cases where doctors refused to speak Russian with their patients for personal reasons. The Ministry of Health has called such behaviour unethical.²¹¹

The situation with the information provided about medicines (both on packaging and on the notes inside) is more controversial. In accordance with Section 21, para.2 of the State Language Law, the information notes on goods produced in Latvia must be in the state language (except for the goods intended for export). Though the law

does not prohibit the use of other languages together with the official language, the information in the official language enjoys the main space and cannot be smaller in size and shape than the information in other languages. In practice, though, other languages are rarely used. Section 21, para.3 of the State Language Law says that the information on the package and marking of imported goods must be translated into the state language. The law does not have the same requirement in relation to the languages of minorities. People have expressed discontent with this state of affairs: older people with a poor knowledge of Latvian are especially vulnerable in this situation because information about possible side-effects of medication is unavailable for them.²¹²

RECOMMENDATIONS

Policy on minorities

1. To revoke the declaration on the definition of a 'national minority' in the ratification act of the Framework Convention for the Protection of National Minorities and to declare that 'non-citizens' of Latvia belong to national minorities.

2. To adopt a law on the rights of minorities which defines the mechanisms for ensuring implementation of the rights envisaged by the Framework Convention.

3. To introduce the principle of free self-identification for defining ethnic origin.

4. To remove from all regulations the obligation requiring people to mention their ethnic origin.

5. To collect data on the ethnic structure of the population only be conducting polls and census, i.e. to provide for the right to refuse to declare their ethnic origin and to ensure relevant personal data protection.

6. To increase the budget for financing the cultural needs of minorities, providing support which is equivalent to the share of minorities in the country's population; to work out and to launch a transparent and comprehensive mechanism for distributing this funding.

7. To guarantee that any permanent resident of Latvia annually has a certain number of paid days leave, which he or she can use on the days of religious and public holidays of his or her particular ethnic or religious group.

8. To guarantee that persons who belong to minorities have an opportunity to influence the decision-making process on all issues which concern minorities.

Citizenship policy

1. To grant citizenship without any naturalisation procedure to persons born in Latvia and to persons who received their education in Latvia.

2. To ensure sufficient financing for free training courses for the naturalisation examinations.

3. To cancel all the examinations for naturalisation for people of retirement age and the disabled.

4. To ensure the participation of 'non-citizens' of Latvia in the political process by granting them the rights to participate in local authority elections and elections to the European Parliament.

Language policy

1. To envisage in the language legislation the status of 'a minority language' different from 'a foreign language'.

2. To guarantee official recognition of the traditional spelling of minorities' names (using Latin transliteration).

3. To permit writing traditional place names in the languages of minorities on signs in the territories where historically minorities form a significant part of the population.

4. To revise sanctions for the violations of the language legislation, taking into account the principles of proportionality and relevancy.

5. To guarantee that minorities have the right to contact state authorities in their native language on the territories where a significant part of population (1/5 and more) belongs to minorities.

6. To guarantee that representatives of minorities with low incomes, or those who are imprisoned, have the right to use their native language in their contacts with the authorities.

7. To introduce an option for the authorities to disseminate information in the languages of minorities without any restrictions.

8. To set a guaranteed percentage of broadcasts in the languages of minorities for public media (as part of the state remit).

9. To revise the structure and procedure of elections to the National Radio and TV Council, and to guarantee participation of minorities in the Council.

10. To guarantee a patient's right to choose his or her language in the health care system.

11. To abolish language checks for applicants to the status of the long term resident of the European Community.

Education policy

1. To ensure the right to education in the languages of minorities in cases where the relevant language group is interested enough in such education.

2. To ensure independent and efficient monitoring of education quality, including language aspects.

3. To abandon the compulsory proportions for education in different languages in the educational institutions teaching minorities; to give the administration of these institutions the right to choose independently the proportion of different languages in their educational programmes.

4. To organise the preparation of textbooks and special training of teaching staff for schools, where programmes for minorities are implemented.

5. To guarantee that minorities have equal access to higher education; to ensure an option to use their native (*home*) language at the final examinations in secondary schools and at the entrance examinations to higher educational institutions.

6. To guarantee that minorities also have the right to attend advanced training courses in minority languages financed from the state budget.

7. To distribute information about the cultural, historical, linguistic and religious diversity of Latvia among the majority of population and among minorities.

Integration policy

1. To approve the "Fundamental Principles of Social Integration Policy for 2008 – 2018" making the fight against discrimination and

respect for the human rights and cultural and linguistic diversity the key elements of the new integration policy.

2. To contribute to the creation of a multilingual and multicultural environment in different spheres of life, including in the public sphere.

3. To finance projects aimed at strengthening tolerance towards different cultures, languages, religions, and the free expression of different political and historical views.

4. To guarantee sufficient financing of free courses in the Latvian language for all.

5. To revise the structure and procedure of elections to the Council of the Social Integration Foundation, ensuring the participation of representatives of minorities in it.

Anti-discrimination policy

1. To adopt amendments to the Civil Law which ensure prohibition of discrimination in access to publicly available goods and services, and also amendments to shift the burden of proof in cases where discrimination is alleged.

2. To adopt a framework law on the prevention of discrimination, which would take into account all Latvia's international obligations in this sphere, to include explicitly race, ethnic origin, citizenship and language in the list of possible grounds for discrimination.

3. To revise regulations which contain requirements about citizenship and/or mastering the state language, taking into account the principle of non-discrimination. To verify if each requirement has legitimate aim and is proportional and to abolish in these regulations all citizenship restrictions which concern citizens of third countries but which are not applied to EU citizens.

4. To ensure effective implementation of the "Roma in Latvia" state programme.

5. To classify in the employment sector representatives of minorities to the category of vulnerable persons; to work out appropriate measures for fighting unemployment among the minorities.

6. To fight ethnically and racially motivated crimes linked with incitement of hatred and violence, raising the awareness of society and law-enforcement agencies about such crimes and how to fight them.

ANNEX

The list of Latvian laws mentioned in the report

English version of a legal act's name	Latvian (original) name of a legal act	References to official publications*
Administrative Procedure law	Administratīvā procesa likums	"LV", № 164, 14.11.2001
Administrative Violations Code	Latvijas administratīvo pārkāpumu kodekss	Ziņotājs, № 51, 20.12.1984
Advertising Law	Reklāmas likums	"LV", № 7, 10.01.2000
Children's Rights Protection Law	Bērnu tiesību aizsardzības likums	"LV", № 199/200, 08.07.1998
Citizenship Law	Pilsonības likums	"LV", № 93, 11.08.1994
Civil Law	Civillikums	Ziņotājs, № 22/23, 10.06.1993
Civil Procedure Law	Civilprocesa likums	"LV", № 326/330, 03.11.1998
Civil Service Law	Valsts civildienesta likums	"LV", № 331/333, 22.09.2000
Constitution of the Republic of Latvia	Latvijas Republikas Satversme	"LV", № 43, 01.07.1993
Constitutional Law on Rights and Duties of Man and of the Citizen	Konstitucionālais likums "Cilvēka un pilsoņa tiesības un pienākumi"	Ziņotājs, № 4, 30.01.1992
Consumer's Rights Protection Law	Patērētāju tiesību aizsardzības likums	"LV", № 104/105, 01.04.1999
Criminal Law	Krimināllikums	"LV", № 199/200, 08.07.1998
Criminal Procedure Law	Kriminālprocesa likums	"LV", № 74, 11.05.2005
Education Law	Izglītības likums	"LV", № 343/344, 17.11.1998
General Education Law	Vispārējās izglītības likums	"LV", № 213/215, 30.06.1999
Higher Educational Institutions Law	Augstskolu likums	"LV", № 179, 17.11.1995
Immigration Law	Imigrācijas likums	"LV", № 169, 20.11.2002
Labour Law	Darba likums	"LV", № 105, 06.07.2001
Law on Administrative Territories and Populated Areas	Administratīvo teritoriju un apdzīvoto vietu likums	"LV", № 202, 30.12.1998

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English version of a legal act's name	Latvian (original) name of a legal act	References to official publications*
Law on Changing the Record of a First Name, Surname and Ethnicity	Likums "Par vārda, uzvārda un tautības ieraksta maiņu"	"LV", № 77, 05.07.1994
Law on Holidays, Commemoration Days and Celebratory Day	Likums "Par svētku, atceres un atzīmējamām dienām"	Ziņotājs, № 42, 18.10.1990
Law on Identification Documents	Personu apliecinošu dokumentu likums	"LV", № 84, 05.06.2002
Law on Judicial Power	Likums "Par tiesu varu"	Ziņotājs, № 1, 14.01.1993
Law on Medical Treatment	Ārstniecības likums	"LV", № 167/168, 01.07.1997
Law on Meetings, Rallies and Pickets	Likums "Par sapulcēm, gājieniem un piketiem"	"LV", № 31/32, 30.01.1997
Law on Press and Other Mass Media	Likums "Par presi un citiem masu informācijas līdzekļiem"	Ziņotājs, № 5, 14.02.1991
Law on Religious Organisations	Reliģisko organizāciju likums	"LV", № 146, 26.09.1995
Law on Riga Jewish Religious Community	Rīgas ebreju reliģiskās draudzes likums	"LV", № 98, 20.06.2007
Law on Social Security	Likums "Par sociālo drošību"	"LV", № 144, 21.09.1995
Law on Societies and Foundations	Biedrību un nodibinājumu likums	"LV", № 161, 14.11.2003
Law on State Social Allowances	Valsts sociālo pabalstu likums	"LV", № 168, 19.11.2002
Law on Support for the Unemployed and Job-seekers	Bezdarbnieku un darba meklētāju atbalsta likums	"LV", № 80, 29.05.2002
Law on the Determination of the Status of Persons Politically Repressed by the Communist and Nazi Regimes	Par politiski represētās personas statusa noteikšanu komunistiskajā un nacistiskajā režīmā cietušajiem	"LV", № 64, 26.04.1995
Law on the Elections of City, Regional and Parish Councils	Pilsētas domes, novada domes un pagasta padomes vēlēšanu likums	"LV", № 10, 25.01.1994
Law on the Framework Convention for the Protection of National Minorities	Likums "Par Vispārējo konvenciju par nacionālo minoritāšu aizsardzību"	"LV", № 85, 31.05.2005

Latvia

English version of a legal act's name	Latvian (original) name of a legal act	References to official publications*
Law on the Free Development and Rights to Cultural Autonomy for National and Ethnic Groups	Likums "Par Latvijas nacionālo un etnisko grupu brīvu attīstību un tiesībām uz kultūras autonomiju"	Ziņotājs, № 21, 06.06.1991
Law on the Latvian Old Believers' Church	Latvijas Vecticībnieku Pomoras Baznīcas likums	"LV", № 98, 20.06.2007
Law on the Latvian Union of Baptist Communities	Latvijas Baptistu Draudžu Savienības likums	"LV", № 86, 30.05.2007
Law on the Latvian United Methodist Church	Latvijas Apvienotās Metodistu Baznīcas likums	"LV", № 91, 07.06.2007
Law on the Status of Long-term Residents of the European Community in the Republic of Latvia	Likums "Par Eiropas Kopienas pastāvīgā iedzīvotāja statusu Latvijas Republikā"	"LV", № 107, 07.07.2006
Law on the Status of those Former USSR Citizens who do not have the Citizenship of Latvia or that of any Other State	Likums "Par to bijušās PSRS pilsoņu statusu, kuriem nav Latvijas vai citas valsts pilsonības"	"LV", № 63, 25.04.1995
Law on Union of the Seventh-day Adventist Communities in Latvia	Septītās Dienas Adventistu Latvijas draudžu savienības likums	"LV", № 93, 12.06.2007
Ombudsman Law	Tiesībsarga likums	"LV", № 65, 25.04.2006
Personal Data Protection Law	Fizisko personu datu aizsardzības likums	"LV", № 123/124, 06.04.2000
Political Parties Law	Politisko partiju likums	"LV", № 107, 07.07.2006
Population Register Law	Iedzīvotāju reģistra likums	"LV", № 261/264, 10.09.1998
Radio and TV Law	Radio un televīzijas likums	"LV", № 137, 08.09.1995
Repatriation Law	Repatriācijas likums	"LV", № 155, 10.10.2005
Social Integration Foundation Law	Sabiedrības integrācijas fonda likums	"LV", № 110, 20.07.2001
Saiema Election Law	Saeimas vēlēšanu likums	"LV", № 86, 06.06.1995
State Language Law	Valsts valodas likums	"LV", № 428/433, 21.12.1999

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- ²⁰⁶ Ibid. Pp. 55 – 57.
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- ²⁰⁸ Judgment of the Senate of the Supreme Court of February 13, 2002 in case no. SKC-65.
- ²⁰⁹ Judgment of the Senate of the Supreme Court of April 10, 2008 in case no. SKA-100/2008.
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COMPARATIVE COMMENTS

Part I.

General Aspects of Minority Policies

The process of defining the principles of **citizenship** in Estonia and Latvia was rather peculiar. In the early 1990s the last Supreme Soviets elected by the entire populations of the republics stripped sizable parts of the constituencies which had elected them of the right to vote. The citizenship issue was resolved finally in Estonia by its Supreme Soviet in 1992 and in Latvia by its parliament in 1994, the verdict being that only those who had been citizens of the two republics before 1940 and their descendants could be automatically granted the status of citizens (in Estonia citizenship was also granted to several small groups of population).

In Estonia, others (except for ethnic Estonians and individuals to whom citizenship was granted for 'special services') were barred from naturalisation till 1993 due to the absence of the corresponding legislation. Latvia passed its citizenship law only in 1994, its initial version leaving the doors open only to a fraction of potential applicants who were included in the special annual quotas. According to the law most non-citizens could be naturalised only after several years (only after 2003 in some cases).

The requirements of Latvia's citizenship law were softened in 1998 under pressure from the republic's international partners, and the annual quotas were removed. By contrast, in Estonia, access to citizenship, which had been relatively simple initially, was made more difficult in 1995, probably because the fairly high rates of naturalisation in the country came as a surprise to its ethno-nationalist circles. The language proficiency barrier to naturalisation in Estonia was lowered only in the early 2000s. Currently the naturalisation procedures in Estonia and Latvia are generally similar.

At present those international organisations and political circles which pretended not to notice the above circumstances, and rushed

to greet the 'young democracies' in the 1990s, are calling for an intensification of the naturalisation process and a liberalisation of access to citizenship in both countries. There is no serious reaction from the Estonian and Latvian administrations for the time being. In the meantime, the naturalisation rates in both states are exhibiting a stable downward trend, only occasionally interrupted by short-term surges.

A perfunctory view might lead to the conclusion that the naturalisation model adopted by Estonia and later by Latvia does not depart from the common European practice. In European countries, however, the seemingly similar approach applies only to recent immigrants and by no means to long-term permanent residents. It also presumes large-scale government-funded language instruction programmes which the Baltic countries have never provided.

Faced with a situation of mass statelessness, the Estonian and Latvian administrations chose different ways of tackling the problems they had themselves created. In Estonia it was ruled that the stateless residents would be regarded as *de facto* illegal immigrants whose presence would have to be legalised as a first step. In practice, every such 'alien' had to apply for a *temporary* residence permit and was allowed to apply for a *permanent* one only three years later. It took Estonia several years to decide what type of documents it could issue to this category of individuals without losing face internationally. Thanks to pressure from Western countries and organisations, and after years of living in a legal vacuum, in 1996 the stateless former citizens of the USSR in Estonia were finally given the right to obtain special alien's passports for use as identity cards (IDs) in and outside Estonia.

The Latvian administration remained undecided until 1995 when it passed a special Law on the Status of those Former USSR Citizens who do not Have the Citizenship of Latvia or that of any Other State. The law introduced a unique 'non-citizen' status: 'non-citizens of Latvia' are neither citizens of the country nor stateless individuals in the internationally adopted sense of the term. The status is regarded as unique by Latvia's administration and constitutional court. Being legitimate residents, non-citizens are nevertheless deprived of their basic political rights (such as taking part in national and municipal

elections or establishing political parties) and of a number of rights in the socio-economic sphere (the right to own land in certain zones or to take certain types of jobs, etc.). There were 75 similar limitations as of March 2008. The only citizenship system of this type on record is that of the USSR before World War II – individuals from the former ‘exploiting’ classes in the pre-war Soviet Union were also officially deprived of a number of rights.

The treatment of **national minorities** in both republics is restrictive – the general rule is that only citizens are entitled to minority rights.

The Estonian government’s report on the compliance with the Framework Convention for the Protection of National Minorities (2004) states that currently the citizenship criterion in the definition of a national minority has rather “a political-historical meaning”, is not applied in practice, and does not narrow the rights of minorities. This may be true, but the absence of legal guarantees means that the citizenship criterion can in fact be applied under certain circumstances.

Latvia ratified the Framework Convention with great difficulty and much later, only in 2005. It broadened the Estonian declaration and allowed non-citizens to have the rights reserved for minority citizens. Latvia’s administration is yet to face the main problems with reporting to the Council of Europe, but it is already obvious that the ‘non-citizen’ concept will draw criticism. For example, it is unclear whether ‘non-citizens’ count when the percentages of minorities in the country’s territorial units are calculated. The status of certain ethnic groups remains uncertain in connection with another criterion – that of traditional residence in Latvia ‘for generations’.

Clearly as a reaction to the recommendations persistently made by the EU bodies, Estonia and Latvia have adopted **integration** programmes which are described in detail in the corresponding chapters. The programmes in both countries have more similarities than distinctions, and the similar features can only be appraised negatively. Some factors responsible for segregation in both societies are neither addressed nor for the most part even mentioned. Instead, the programmes set quite a few artificial objectives in some spheres of life. Disproportionate importance is attached to the theme of the official language. It is indicative that many of the prominent minority

activists were not invited to take an active part in the formulation of these programmes.

The **linguistic politics** in Estonia and Latvia represent a Utopian attempt to impose the model of a mono-linguistic and mono-ethnic state on a de facto bilingual and multiethnic society. The worst aspect of the situation is that the realisation of the plan entails the suppression of natural social and linguistic processes in the two societies which exhibit a clear tendency to *balanced bilingualism*. Instead of appreciating the natural dynamics, the administrations in Estonia and Latvia take punitive measures and empower their official linguistic watchdogs: the Language Inspectorate in the former and the State Language Centre in the latter. The raids and inspections launched by the Estonian ‘language police’ merely demonstrate the inadequately high level of the language proficiency requirements established by law. In Latvia, various language-related violations are incorporated into the Administrative Violations Code, and even in this case the Latvian legislators have presented the world with something unprecedented: the list of offences includes “an obvious disrespect for the state language”. In addition, ‘foreign’ names in Latvia must be rewritten in accord with the grammar of the Latvian language both in mass media and in identity cards.

Not surprisingly the theme of **discrimination** is a permanent feature of public and media discourse in Estonia and Latvia. Several sociological studies of the subject have also seen the light of day recently. In Estonia, roughly 50% of those polled in 2007 regard discrimination as an acute problem in the country. A large part of the ethnically non-Estonian population reported having been discriminated against and cited cases of degrading treatment or limitation of their rights based on the ethnic origin and native languages. Contrary to official claims, polls show that fluency in Estonian is no guarantee against discrimination, especially in the labour market.

Fewer polls have been conducted in Latvia but the available data reveal roughly the same situation. A considerable fraction of those polled reported having been discriminated against recently. Most ethnic Russians and other minorities opined that ensuring racial equality and protecting the rights of ethnic minorities was an urgent task in the country’s political context, and the view was also quite

widely held among ethnic Latvians. Minority members and Latvians agree that the administration does not make sufficient efforts to fight discrimination.

It is extremely important from the standpoint of future development that in 2000 the EU adopted binding directives concerning the fight against unequal treatment and discrimination based, among other factors, on ethnicity, race, and religion. Unfortunately the implementation of the directives in both republics is proceeding slowly and with great difficulty. It took Estonian legislators some five years to set detailed norms of protection against discrimination based, inter alia, on race, ethnicity, religion. The corresponding Equal Treatment Act took effect only on January 1, 2009 and its efficiency cannot be assessed yet. Latvia rejected the integrated approach to the implementation of the directives and did not pass a framework law against discrimination aligned with the instruments of the Council of Europe and the UN.

Part II.

Specific Issues Concerning the Realisation of Civil and Political Rights

To a large extent, minorities in Estonia and Latvia are barred from **political decision-making** and are not represented in ruling coalitions. The level of participation of minorities in **public life** of both republics is also quite low.

Nevertheless, in Latvia the dynamics of representation of minorities in the country's parliament is positive, and the level of activity of the Russian non-parliamentary opposition is impressive. The efforts of the Russian minority have not meet with an even greater success due to its internal problems – for example, the leaders of the two major political parties representing the ethnically non-Latvian population demonstrate a lack of will to combine their efforts. In contrast, the situation in Estonia is marked with increasing apathy and disorganisation in the ranks of the minorities. The reasons behind the situation are both external (the high activity and sophistication of the Estonian security service and

of political competitors) and internal (the obvious degradation of the local Russian political elite which initially grouped around the Estonian United People's Party).

On the whole, the Russian minority is clearly underrepresented in the municipal councils and parliaments in both Estonia and Latvia. Although in Estonia non-citizens have had the right to vote in municipal elections since the early 1990s, they have in fact accomplished no more than their peers in Latvia. Recently the pro-minority forces' presence in municipal legislatures in Estonia has shrunk to insignificant proportions. Interestingly, 'non-citizens' in Latvia have the right to join political parties – in contrast to 'aliens' in Estonia – but they have no electoral rights whatsoever.

For a long time the political weakness of minorities in Estonia was compensated by the activity and efficiency of public organisations and of the Presidential Round Table on National Minorities. An attempt to create a similar institution was made in Latvia but quickly ended in failure. For a certain period of time, the Round Table in Estonia genuinely served as mechanism for dialogue involving ministers and experts in discussions, issuing comments and memorandums on legal problems, and occasionally even initiating law amendment processes. In the past several years, however, President Ilves and the ruling coalition have tended to withdraw from the dialogue with their opponents both from the opposition and from the minorities. Instead, the Security Police publishes yearbooks with detailed descriptions of the activities of the minorities' organisations. Even the crisis triggered by the relocation of the Soviet-era World War II memorial did not compel the administration to reconsider its position.

It should be noted that the street protests in Estonia during the April 2007 crisis were mostly spontaneous. The Night Watch which protected the Soviet-era monument never evolved into a full-scale organisation and remained an informal grass-roots movement of activists without influential leaders. As a result, the reaction of the defenders of the monument to the police attack in the evening of April 26, 2007 grew unpredictable and spun out of control.

In contrast, mass protests against the planned minority school reform in Latvia were organised in an exemplary manner. The Staff for

the Protection of Russian Schools – an informal organisation for the preservation of the education in Russian – was established and acted with remarkable inventiveness. It resorted to a broad range of forms of non-violent protest including flash-mobs. As a result no serious clashes with the police ensued despite the impressive proportions and duration of the protest activities.

Nevertheless, the authorities in Latvia have responded in a manner which is no more democratic than that of their Estonian colleagues. In a European country steeped in democratic traditions, such a clear manifestation of the position of a sizable part of the population would have urged the administration at least to suspend the implementation of unpopular reforms and to try to reach a compromise with its opponents. Instead, the parliament in Latvia attempted to pass an even more discriminatory act, and the Constitutional Court had to intervene to save the state's democratic face.

Latvia's Ombudsman should be credited with doing a great deal for the protection of human rights. In contrast, in Estonia the Chancellor of Justice, who should have played the same role, is only partially charged with the mission. In Latvia, the Ombudsman and the Constitutional Court helped significantly to soften the worst resolutions of the parliament and of the administration. It also initiated investigations, and undertook other activities. Over the past years, the Latvian courts have handed down a number of sentences for inciting hatred on the basis of ethnicity, and this shows that the judicial system in the country is independent and professional.

Speaking of the April 2007 crisis in Estonia and its consequences, one should note in the context of the comparison with Latvia that – as an unpleasant surprise – district courts rejected the complaints of the victims of the police brutality. While the reaction of the police which did not want to open investigations against its own officers was to an extent predictable, the position of the prosecutor's office would be harder to explain. The courts' refusal to give the victims a chance that an unbiased investigation would be opened was obviously a denial of access to justice.

On the other hand, in early 2009, an Estonian court acquitted four activists of "organizing the April riots", and a number of earlier acquittals

have also been reported. On the whole, the conclusion is that although Estonian courts do not sentence innocent people, they are unwilling to open investigations against law enforcement agencies. In addition, the recent amendments of Estonia's Penal Code have had a reassuring effect on the authors of racist statements and publications.

Part III.

Specific Issues Concerning the Realisation of Economic, Social, and Cultural Rights

The negative tendency in **education** common to Estonia and Latvia is the relatively fast decrease in the number of students in Russian schools compared to the Estonian and Latvian ones. This tendency is especially manifest in secondary schools.

The educational reform aimed at limiting the instruction in upper secondary schools in Russian to 40% is implemented by the Latvian administration despite widespread opposition to it. The negative consequences of reforms of this type predicted by experts in both countries have also surfaced for the first time in Latvia. Though the average grades of students who studied in Russian were the same or slightly higher than those of the students who studied in Latvian, the final tests grades in minority schools in subjects taught in Latvian were 20% below the average in Latvian schools. In other words, the reform has already begun to affect the quality of education.

Not surprisingly around 50% of Latvian students took part in protests against the reform, and some 50% of those who had not regretted their passivity. Another concern voiced by experts – that the administration failed to prepare the majority of teachers for the reform – also appears realistic. The percentage of the 'prepared' schools seems rather low and the level of readiness of teachers, school directors, and parents is clearly insufficient.

Largely due to the negative experience in Latvia, Estonia adopted a gradualist approach to the educational reform and, as a first step, decided to switch to teaching in Estonian such subjects as Estonian

literature, social studies, history, geography, and music. As of 2008, it was planned to complete the reform – to raise the level of instruction in Estonian to 60% – by 2011. Polls show that the 'gentle' launch of the reform helped to ease the tensions in society over the issue. On the other hand, the Ministry of Education and Research seems determined to accelerate the reform as has been done in Latvia.

The official language proficiency of teachers in Russian schools and preschools in Estonia is monitored on a regular basis by the Language Inspectorate. There is a widespread impression that the language requirements set by the Language Act are excessively stringent. For example, in 2007 97% of teachers who were tested failed to comply with the requirements, which is likely to be an indication of problems either with the requirements themselves or with the Inspectorate.

Minorities in both Estonia and Latvia face discrimination on the **labour market**.

Polls conducted in Latvia show that minorities are disproportionately affected by unemployment. According to a World Bank study in 2002, the unemployment rates among Latvians and minorities were 10% and 15% respectively. The unemployment rate among minorities in Latvia is some 50% higher than the countrywide average.

In Estonia, the unemployment rate among minorities has been twice as high as that among ethnic Estonians over the past several years. In Tallinn in 2004 – 2006 the rate of unemployment among minorities on the whole was three times higher than among ethnic Estonians, and among the people who belonged to minorities but were fluent in Estonian – twice higher than among ethnic Estonians. Therefore, minorities are disadvantaged on the labour market in Estonia to an even greater extent than in Latvia.

Another indication of the discrimination in the labour market in both countries is that minorities are underrepresented as managers and specialists but overrepresented in the low-quality workforce.

A certain level of discrimination against minorities is a reality common to many countries. In Estonia and Latvia, however, the administrations exacerbate the situation by coupling the linguistic factor with labour market competition. In Latvia, where the current legislation makes it impossible for roughly 50% of the minority

population to work as civil servants and public sector employees, the language proficiency is an additional factor limiting job opportunities for minorities.

The law in Latvia sets six levels of language proficiency. The highest 3B category is a prerequisite for positions such as director of a public institution, lawyer, psychologist, secretary, school director, etc. This category requires the ability to carry on conversations in various styles and to use diverse means of linguistic expression. It probably remains unknown what percentage of Latvians would be able to pass the corresponding tests, but 90% of the staff in Latvian ministries, judges, etc. are ethnic Latvians.

In the private sector it should have normally been left to employers to define the required language proficiency levels for their employees. Nevertheless a list of language proficiency requirements for the private sector was introduced in November 2000 with a reference to "the legitimate interests of the society". It was revised in December 2006 and substantially broadened in August 2008. In October 2008 the Ministry of Justice proposed amending the Labour Law to make it mandatory to include required language proficiency categories in all employment contracts.

The situation in Estonia is similar. Experts say that some of the official language proficiency requirements are imbalanced and potentially discriminatory. The compliance with the requirements is monitored by the Language Inspectorate, which has for years been producing reports condemning the lack of language skills in various spheres. The inadequacy of the requirements is widely recognised. A 2006 nationwide poll showed that only 8% of respondents belonging to minorities with Estonian citizenship needed full command of spoken and written Estonian at their place of work (according to their own assessments, not the official requirements). Full command of spoken Estonian plus some command of written Estonian were needed by 25%, and a reasonable command of spoken Estonian plus some extent of command of written Estonian by 26%. The results probably reflect the actual public need for language skills among minorities.

Language proficiency requirements are often used as an instrument of discrimination and unfair competition, contributing to the overall

vulnerability of minorities in the labour market. For example, statistics show that even full command of Estonian is not enough to compete with ethnic Estonians in Tallinn – minorities fluent in Estonian are also exposed to a heightened risk of unemployment and have smaller chances of becoming managers or specialists.

This discrimination results in sustained differences in income levels between ethnic Estonians and minorities in independent Estonia. Whereas no disparity was observed in the early 1990s – at the time of the disintegration of the USSR – subsequently the minorities became disadvantaged. Minorities are also underrepresented among the highest earners in the country.

In Latvia the situation is quite different. The incomes of ethnic Latvians and minorities differ minimally despite the presence of the same discriminatory factors, as they are offset by the accomplishments of minorities in the private sector.

Both Estonia and Latvia must be credited with ensuring equal access of citizens and individuals without citizenship to **social welfare**. In Estonia, though, certain benefits such as special welfare for those who worked on the site of the Chernobyl catastrophe are available, in fact, only to citizens by birth.