

ETHNIC RUSSIANS AND MINORITY RIGHTS IN THE BALTIC STATES  
DURING THEIR EU ACCESSION PROCESS

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ETHNIC RUSSIANS AND MINORITY RIGHTS IN THE BALTIC STATES  
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## **ABSTRACT**

### **ETHNIC RUSSIANS AND MINORITY RIGHTS IN THE BALTIC STATES DURING THEIR EU ACCESSION PROCESS**

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This thesis examines the impact of the Baltic states of Estonia, Latvia and Lithuania's European accession process on the Russian oriented citizenship policies and laws of these states from a comparative perspective. The thesis also explores the impact of communist heritage and the construction of the post-communist state order within the context of minority rights; in addition to the consistency of the citizenship laws in the Baltic states with the European Union norms, which require the respect for and protection of minorities.

The main argument of this thesis is that notwithstanding the fact that the European accession process has promoted minority rights in the three Baltic states significantly, the ethnic Russians in the Baltic states have been partially accommodated during the Baltic states' accession into the EU. The ethnic Russians have not been entirely accommodated due to Baltic states' fear from potential influence of the Russian Federation over the ethnic Russians in these Baltic states.

Keywords: EU, Minority Rights, Estonia, Latvia, Lithuania

## ÖZ

### AVRUPA ENTEGRASYON SÜRECİNDE BALTİK ÜLKELERİNDE ETNİK RUSLAR VE AZINLIK HAKLARI

Güngör, Özge

Yüksek Lisans

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Bu tez, Baltık ülkelerinden Estonya, Letonya ve Litvanya'nın Avrupa Birliği'ne (AB) katılım sürecinin söz konusu ülkelerde yaşayan etnik Rus nüfusa dönük vatandaşlık politika ve kanunları üzerindeki etkilerini karşılaştırmalı olarak incelemektedir. Tez, aynı zamanda, vatandaşlık kanunlarının, azınlık hak ve özgürlüklerine saygı, bu hak ve özgürlüklerin korunmasını gerektiren AB normları ile tutarlılığına ek olarak, Komünist mirasın bu ülkeler üzerindeki etkilerini ve bu ülkelerin Komünizm sonrası devlet düzeninin yeniden inşasını azınlık hakları çerçevesinde incelemektedir.

Tezin temel argümanı olarak, AB katılım sürecinin Baltık ülkelerindeki azınlık haklarına sağlamış olduğu önemli katkıya rağmen, söz konusu ülkelerin AB katılım süreci boyunca etnik Rusların azınlık hakları konusunda kısmi ilerleme sağlayabildiği öne sürülmektedir. Baltık ülkeleri, Rusya Federasyonu'nun, kendi ülkelerinde yaşayan etnik Ruslar üzerinde yaratabileceği olası etkiden duydukları korku sebebiyle, azınlık hakları konusunda tam olarak ilerleme sağlayamamıştır.

Anahtar Kelimeler: AB, azınlık hakları, Estonya, Letonya, Litvanya

To My Parents

And

My Friends

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## **LIST OF ABBREVIATIONS**

CEEC	Central and Eastern European Countries
CIS	Commonwealth of Independent States
CoE	Council of Europe
EC	European Commission
ECHR	European Convention on Human Rights
EEA	European Economic Area
EEC	European Economic Community
EU	European Union
EP	European Parliament
FCNM	Framework Convention for the Protection of National Minorities
HCNM	High Commissioner on National Minorities
LCP	Latvian Communist Party
LICD	Latvian Immigration and Citizenship Department (Immigration and Citizenship Board)
NATO	North Atlantic Treaty Organization
NGO	Non-governmental Organization
NSDAP	National Socialist German Workers Party
OSCE	Conference on Security and Co-operation in Europe
PACE	Parliament Assembly of the Council of Europe
UN	United Nations
UNDP	United Nations Development Programme
USSR	Union of Soviet Socialist Republics

## **CHAPTER I**

### **INTRODUCTION**

Primary aim of this thesis is to analyze the European Union (EU) accession process and its impact on the citizenship policies and laws of the Baltic states of Estonia, Latvia, and Lithuania from a comparative perspective. In this regard, the thesis presents a general framework on the citizenship policies and laws after independence of the three Baltic states in the early 1990s. In addition, the thesis explores the impact of the so-called communist heritage and the construction of the post-communist state order within the context of minority rights and its concerns with the progress of each Baltic state on minority issue during their transition. The thesis, therefore, focuses upon EU accession process of the three Baltic states. In this manner, the aim of the thesis is to make an analysis of the scope of conditionality imposed on the Baltic states by the EU.

In the post-communist period, the Baltic states has progressed from communist states into members of the EU. Following their independence, the Baltic states committed themselves to the reconstruction of their pre-war republics. They began formulating policies and laws in order to promote the democratic values and social progress in their countries. However, there was an important issue, citizenship laws and minority rights, for them to tackle among other issues.

The dissolution of the Soviet Union has transformed many ethnic Russians out of the Russian territory into international migrants of an uncertain

membership. In other words, the dissolution of the Union raised the minority question in the post-communist states, including Estonia, Latvia and Lithuania. Therefore, the three Baltic states tried to find out solutions to the status of extensive number of ethnic minorities within their borders. Yet, they considered these ethnic minorities, ethnic Russians in particular, threat to their national sovereignty. The memories of the annexation period as of 1940 until the late 1980s were influential in this context. Therefore, their way of tackling huge number of ethnic minorities within their borders became more problematic.

Through the annexation years, Soviet policies of industrialization caused extensive number of Russian influx into Baltic states, especially to Estonia and Latvia. As a result, the proportion of non-titular communities in these Baltic states grew from approximately 10 per cent to 40 per cent by the late 1980s. To be more specific, in Estonian case the percentage share of Estonian population dropped from approximately 90 per cent to 60 per cent within a century. Through the early twentieth century, Estonians had made up 87.7 per cent of the total population. They were followed by Russians (8.2 per cent) and Germans (1.7 per cent). By the late 1980s, Estonians made up 61.5 per cent, Russians 30.3 per cent, Ukrainians 3.1 per cent, Belarusians 1.8 per cent and others 8.2 per cent of whole population.<sup>1</sup>

The demographic situation in Latvia was more problematic compared to other two Baltic states. Latvia experienced the highest population growth in Europe between 1959 and 1989 as a result of immigration from other states of the Soviet Union. According to 1989 data, whereas Latvians made up only 52 per cent of the population, Russians constituted 34.0 per cent, Belarusians 4.5 per cent, Ukrainians 3.4 per cent, Poles 2.3 per cent, Lithuanians 1.3 per cent, Jews 0.9 per cent, and others less than 2 per cent of the Latvian population.<sup>2</sup>

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<sup>1</sup> Estonian Institute, *Ethnic Issues in Estonia*, October 1996.

Compared to Estonia and Latvia, Lithuania did not experience such a big flow of Russian immigrants from the other parts of the Union. In Lithuania, Lithuanians made up 79.6 per cent, Russians 9.4 per cent, Poles 7 per cent, Belarusians 1.7 per cent, Ukrainians 1.2 per cent, Jews 0.3 per cent, Latvians 0.1 per cent, Germans 0.1 per cent, and others 0.6 per cent of whole population.<sup>3</sup> The abovementioned differences in the ethnic composition of the three Baltic states determined their struggle for independence in the early 1990s.<sup>4</sup>

Although there are several similarities among the Baltic states, between Estonia and Latvia in particular, there are also significant differences among these states. The first difference is in their ethnic composition. The statistics above indicate that whereas ethnic Russians have constituted the biggest minority group in Estonia and Latvia through history, the number of Russians has always been relatively limited in Lithuania. Secondly, the Baltic states differ from each other in terms of their ethnic “dispersals”. While there are ethnic enclaves (which are areas with major concentrations of ethnic minorities) in Eastern Lithuania and Northeastern Estonia, Latvia does not have any ethnic enclaves.<sup>5</sup>

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<sup>2</sup> Dzintra Bungas, “The Shifting Political Landscape in Latvia”, RFE/RL *Research Report*, Vol.2, No.12, 19 March 1993, pp.28-34.

<sup>3</sup> Walter C. Clemens, “Baltic Identities in the 1990s, Renewed Fitness”, in Roman Szporluk (ed.), *National Identity and Ethnicity in Russia and the New States of Eurasia*, London: M.E.Sharpe, 1994, p.200.

<sup>4</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, Ashgate Publishing Company, 2005, pp.5-6.

<sup>5</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, Ashgate Publishing Company, 2005, pp.5-6.

Taking into consideration the aforementioned differences in the ethnic compositions and ethnic dispersals of the three Baltic states, it can be observed that they developed different approaches to manage their heterogeneity. In other words, the three Baltic states followed different approaches to realize their political community building following their independence in the early 1990s. At this point, one of the two main principles of the thesis (in discussing the citizenship laws and minority rights) comes to the fore: the principle of *state continuity*, which indicates the restorative character of Estonian, Latvian and Lithuanian states.

Within the context of *state continuity*, Estonia passed a new constitution in 1992 and reinstated 1938 law on citizenship, which was amended in 1940. According to this law, citizenship was granted to those, who were citizens of Estonian state prior to the Soviet annexation of 1940 and their descendants. Similarly, Latvia restored the 1922 constitution and 1919 citizenship law, which was amended in 1927. In accordance with this citizenship law, only those who were pre-1940 citizens and their descendants were granted Latvian citizenship. The Resolution on the Renewal of the Body of Citizens of the Republic of Latvia and the Main Principles of Naturalization was adopted by Latvian authorities in 1991. Yet, the naturalization was made possible after the citizenship law of 1994, which entered into force in 1995. It is observed that the right to citizenship was not broadened to minorities living in these two Baltic states.

On the other hand, Lithuania passed a citizenship law in 1989 when it was still part of the Union of Soviet Socialist Republics (U.S.S.R.). According to the law, all pre-1940 citizens and their descendants were granted automatic citizenship. The law, then, was broadened to citizens of the Soviet period under several conditions such as signing a loyalty declaration. In so doing, almost every person in the state was granted Lithuanian citizenship. Therefore, no

naturalization procedures were mentioned under the 1989 Law and 1991 Treaty until late 1991.

Since the Baltic states had concerns about the given Russia's use of human rights rhetoric for their political purposes, they started seeking for security alliance against so-called given Russian threat. At this point, the accession into the EU was seen as crucial; and, therefore, the Baltic states set their priority to return to Europe.

Following the dissolution of the Communist order, the EU expected significant number of applications from the post-Communist countries. As Karen Smith argues, the process of the EU enlargement has taken shape by taking into consideration the existence of newly independent post-Communist East Central countries in Europe.<sup>6</sup> European Council, therefore, adopted the Copenhagen Summit in June 1993, which set several political and economic criteria for candidate states before they could become eligible for the EU membership. The idea behind this attitude was to consolidate the security and stability both within the borders of the EU and within the borders of the neighbor countries to the EU.

At this point, the EU drew new boundaries between Central and Eastern European Countries (CEEC) on the one hand, and the Commonwealth of Independent States (CIS) on the other. The Baltic states were categorized as Central European states after their independence, and they were considered as the potential EU member states from the European Union's point of view.<sup>7</sup> The

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<sup>6</sup> Karen E. Smith, "Western Actors and the Promotion of Democracy", in Zielonka and Pravda (eds.), *Democratic Consolidation in Eastern Europe*, Oxford University Press, 2001, pp.31-57. On EU enlargement as an 'order-building project', see also P. Aalto, "Post-soviet Geopolitics in the North of Europe", in M. Lehti and D. J. Smith (eds.), *Post-Cold War Identity Politics. Northern and Baltic Experience*. London: Frank Cass, 2003.

<sup>7</sup> Karen E. Smith, "Western Actors and the Promotion of Democracy", in Zielonka and Pravda (eds.), *Democratic Consolidation in Eastern Europe*, Oxford University Press, 2001, pp.31-57.



EU opened the accession negotiations in the late 1990s with the Baltic states, whose membership was scheduled in May 2004 after the Copenhagen Council. Upon the opening of the negotiation chapters, Estonia, Latvia and Lithuania started to implement the terms of the *acquis communautaire*<sup>8</sup>.

As mentioned by David Smith, the political and economic conditionality are demonstrated within the Copenhagen criteria; and the terms of the *acquis communautaire* provides “the EU with a powerful instrument for shaping the process of transition in the prospective member states of CEE. However, the degree of engagement has shown considerable variation according to country and issue area”.<sup>9</sup> The *acquis*, specifically, demonstrates the obligations of the EU member states and potential EU member states. As stated by Richard Rose,

Discussion of the chapters of the *acquis* involves the EU evaluating the extent to which existing national practices of an applicant are consistent with the *acquis*; steps that must be taken to make practices consistent; the offer of financial and technical assistance; and the agreement of a timetable when EU laws and regulations will be implemented before or after admission to membership.<sup>10</sup>

During the accession process of Estonia, Latvia and Lithuania between 1997-98 and 2003, the EU has actively involved into the transition process of

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On EU enlargement as an ‘order-building project’, see also P. Aalto, “Post-soviet Geopolitics in the North of Europe”, in M. Lehti and D. J. Smith (eds.), *Post-Cold War Identity Politics. Northern and Baltic Experience*. London: Frank Cass, 2003.

<sup>8</sup> *Acquis communautaire* is the common rights and obligations which bind all the Member States together within the European Union. Europa, Activities of the EU, *Summaries of Legislation*, < [http://europa.eu/scadplus/glossary/community\\_acquis.htm](http://europa.eu/scadplus/glossary/community_acquis.htm).> (Accessed on 4 October 2007).

<sup>9</sup> David Smith, “Cultural Autonomy in Estonia. A Relevant Paradigm for the Post-Soviet Era?”, *ESRC ‘On Europe or Several?’* (Programme funded by the British Economic and Social Research Council). < <http://www.one-europe.ac.uk/pdf/wp19.pdf>> (Accessed on 14 January 2007).

<sup>10</sup> Richard Rose, “Croatian Opinion and the EU’s Copenhagen Criteria,” *Chatham House*, University of Aberdeen, December 2005, <[http://www.chathamhouse.org.uk/publications/papers/download/-/id/245/file/3881\\_bpcroatia.pdf](http://www.chathamhouse.org.uk/publications/papers/download/-/id/245/file/3881_bpcroatia.pdf)> (Accessed on 23 June 2007).

the Baltic states. As mentioned by David Smith, the level of its involvement varied in accordance with the country and issue. Minority rights have been an important issue through the EU's eastward enlargement. In this regard, Gwendolyn Sasse states that "most of the post-communist countries prioritized the strengthening of central state capacity and the position of the titular nationality, thereby running the risk of discriminating against, alienating and politicizing minority groups. A number of intractable post-Soviet conflicts as well as a perception of further conflict potential in view of sizeable minorities in many East European countries"<sup>11</sup> including the Baltic states as of 1989.

In order to become eligible for the EU membership, Baltic governments must meet the accession criteria (the Copenhagen criteria). The criteria underlined the respect for human rights and protection of minority rights as a pre-requisite for accession.<sup>12</sup> Therefore, the Commission has regularly monitored (the problems of the integration of ethnic Russians in particular<sup>13</sup>) the compliance of the Baltic states with these criteria. During accession process Estonian, Latvian and Lithuanian authorities amended their citizenship laws in a more liberal way. For example, the state authorities made naturalization

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<sup>11</sup> Gwendolyn Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUI Working Paper RSCAS No. 2005/16, 2005.

<sup>12</sup> Richard Rose, "Croatian Opinion and the EU's Copenhagen Criteria", *Chatham House*, University of Aberdeen, December 2005  
<[http://www.chathamhouse.org.uk/publications/papers/download/-/id/245/file/3881\\_bpcroatia.pdf](http://www.chathamhouse.org.uk/publications/papers/download/-/id/245/file/3881_bpcroatia.pdf)> (Accessed on 23 June 2007).

<sup>13</sup> See the Regular Reports of 2000 from the European Commission on Estonia's and Latvia's progress towards accession at:  
<[http://europa.eu.int/comm/enlargement/dwn/report\\_11\\_00/pdf/en/es\\_en.pdf](http://europa.eu.int/comm/enlargement/dwn/report_11_00/pdf/en/es_en.pdf)> and  
<[http://europa.eu.int/comm/enlargement/dwn/report\\_11\\_00/pdf/en/lv\\_en.pdf](http://europa.eu.int/comm/enlargement/dwn/report_11_00/pdf/en/lv_en.pdf)> (Accessed on 18 November 2006). Also see, Vadim Poleshchuk, *Accession to the European Union and National Integration in Estonia and Latvia*, ECMI Report No. 8, 7-10 December 2000.

requirements easier for elderly people and children; they also expanded the right to political representation of non-citizens.

These developments led to the recognition of external restrictions on political community building process, the minority rights in the context of the Baltic states. In other words, the desire for being member to the EU brought progress on the citizenship laws and policies of the Baltic states. Therefore, the examination of the political community building process in the three Baltic states would present a comprehensive case to understand to what extent the international organizations (the EU in this case) could influence new democratizing states by introducing norms and democratic rules.<sup>14</sup>

At this point, the principle of *conditionality* calls for attention.<sup>15</sup> This principle emphasizes the role of international conditionality in forcing the Baltic states, Estonia and Latvia in particular, to reduce the exclusive character of their citizenship policies. The protection of human rights and the rights of minority groups were one of the pre-requisites of the EU for candidate countries according to the Copenhagen criteria. However, these criteria was criticized due to its vagueness; because as James Hughes claims, there is a lack of “an agreed legal, or indeed conceptual, definition of what constitutes a national ‘minority’”<sup>16</sup> in the EU legislation.

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<sup>14</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashgate Publishing Company, 2005, p.3.

<sup>15</sup> James Hughes, “Russophone Minorities in Estonia and Latvia”, *Development & Transition*, the United Nations Development Programme and the London School of Economics and Political Science, November 2005, <<http://www.developmentandtransition.net/uploads/issuesAttachments/13/DevelopmentAndTransition2.pdf>> (Accessed on 12 February 2007).

<sup>16</sup> James Hughes, “Russophone Minorities in Estonia and Latvia,” *Development & Transition*, the United Nations Development Programme and the London School of Economics and Political Science, November 2005

It is generally argued by several scholars, such as James Hughes that international pressure facilitated Estonian and Latvian authorities to bring their citizenship laws into “compliance with international standards on minority issues”<sup>17</sup>. In other words, the EU conditionality speeded up the naturalization procedures for non-citizens in both countries.<sup>18</sup> Likewise, the OSCE Missions, which were established in 1993 both in Estonia and Lithuania; and the High Commissioner on National Minorities (HCNM), Max Van der Stoel, helped these states to promote dialogue between communities. The closure of the OSCE Missions in Estonia and Latvia in 2001 in tandem with these states’ entry into NATO and the EU in 2004 could be a proof of the progress in the minority issues.

In this regards, the main argument of this thesis is that notwithstanding the fact that the European accession process has promoted minority rights in the three Baltic states significantly, the ethnic Russians in the Baltic states have been partially accommodated during the Baltic states’ accession into the EU. The ethnic Russians have not been entirely accommodated due to Baltic states’ fear from potential influence of the Russian Federation over the ethnic Russians in these Baltic states. In fact, the vagueness of the status of the ethnic Russians still remains. The main reason behind this, what I call “partial-integration

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<<http://www.developmentandtransition.net/uploads/issuesAttachments/13/DevelopmentAndTransition2.pdf>> (Accessed on 12 February 2007).

<sup>17</sup> James Hughes, “Russophone Minorities in Estonia and Latvia,” *Development & Transition*, the United Nations Development Programme and the London School of Economics and Political Science, November 2005

<<http://www.developmentandtransition.net/uploads/issuesAttachments/13/DevelopmentAndTransition2.pdf>> (Accessed on 12 February 2007).

<sup>18</sup> James Hughes, “Russophone Minorities in Estonia and Latvia,” *Development & Transition*, the United Nations Development Programme and the London School of Economics and Political Science, November 2005

<<http://www.developmentandtransition.net/uploads/issuesAttachments/13/DevelopmentAndTransition2.pdf>> (Accessed on 12 February 2007).

thesis”, is the lack of a common definition of “national minority” neither in EU law nor in international politics and law, which cause ambiguities in the application.<sup>19</sup> Secondly, this is related to the effects of given Russia’s use of the human rights rhetoric for its own (geo) political objectives. In addition to the Baltic states’ reminiscence of the recent Soviet occupation period on the creation of a permanent tension between the attempts of the EU and other international organizations in promoting minority rights on the one hand and the three Baltic states’ attempts to protect so-called endangered national identity on the other.

Within the above mentioned context, some scholars argue that the accession to the EU has solved the nationality question in the Baltic states, minority rights in particular, what I call this approach “full-integration thesis”. For instance, one of these scholars, Dmitri Trenin, argued prior to the EU accession that “hundreds of thousands of ethnic Russians will be quickly integrated into the new interethnic communities of the Baltic countries. The Baltic Sea Coast will see new “Euro-Russians””.<sup>20</sup>

However, Karen Smith at this point argues that democratization and minority rights have not always been the priority regarding the EU enlargement.<sup>21</sup> In this manner, the Baltic states’ progress in relation to the EU has depended more on their performance in the field of economic transformation than minority rights. Thus, according to David Smith the

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<sup>19</sup> Gwendolyn Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUI Working Paper RSCAS No. 2005/16, 2005.

<sup>20</sup> Dmitri Trenin, *Baltic Chance. The Baltic States, Russia and the West in the Emerging Greater Europe*, Washington, 1997, p.37.

<sup>21</sup> Karen E. Smith, “Western Actors and the Promotion of Democracy”, in Zielonka and Pravda (eds.), *Democratic Consolidation in Eastern Europe*, Oxford University Press, 2001, pp. 13-15.

minority question has not been totally solved in the Baltic context. Furthermore, these states have protected their ethno-political stability<sup>22</sup>, which arose from the historical memories of the Baltic nations. In addition, some scholars, such as Ian Barnes and Claire Randerson claim that the EU integration has not solved the problems of the ethnic Russians in the three Baltic states. Moreover, the integration created potential sources of tension for the EU.<sup>23</sup> Therefore, the argument which sees the potential Russian effects as the main factor in shaping the citizenship policies and laws of the Baltic states has been more supported. I call this approach “non-integration thesis”.

The argument of this thesis is also in line with the latter arguments. Since the EU has been considered as an important ally for ensuring security in the region, it has been influential in domestic policy-making process of the Baltic states. During the intervention of the EU to the policy implementations of the Baltic states, the EU norms had vital importance for minority issue in these states during their accession process. Therefore, it would be unfair to ignore the EU’s role in promoting the minority rights in the three Baltic states. Yet, the historical effects of the occupation years in the political conditions of the Baltic states has been usually underestimated. Thus, it is observed that the EU norms sometimes have just been passed by the national parliaments due to fear from potential Russian threat. This is the reason behind the unsolved minority issue, or partial integration in the three Baltic states.

The events during the Soviet annexation of 1939-1940 until late 1980s have influenced the whole process of the implementation of the citizenship

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<sup>22</sup> David J Smith, *Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*, JEMIE- Journal on Ethnopolitics and Minority Issues in Europe, Issue 1, 2003, p.8.

<sup>23</sup> Ian Barnes; Claire Randerson, *Belonging to the New Europe and Preserving Ethnic Identity – the problem of the “hard borders” post May 2004*, 2004, <<http://www.psa.ac.uk/journals/pdf/5/2004/Barnes.pdf>> (Accessed on 7 September 2007).

policies and laws in each Baltic state. Following their independence independence, while Lithuania granted citizenship to all permanent residents in the country on the basis of so-called zero option, Estonia and Latvia granted citizenship only those who had been citizens of pre-war Estonian and Latvian states along with their descendants. In this regard, the Second Chapter of this thesis presents a general framework of the origin of the Baltic nations and the evolution of the Baltic states. In addition, the chapter analyzes the Soviet period in the three states in detail along with their independence process in the early 1990s.

Through early 1990s, the citizenship policies and laws of the Baltic states had been shaped by taking into consideration the potential effects and threat of Russia and Russians. The Baltic nations, therefore, tried to preserve their ethnic identity. In this sense, the Third Chapter intends to focus upon the citizenship laws and policies in each Baltic state and the relative differences of these laws until the EU negotiations in the late 1990s.

In the late 1990s, the EU started accession negotiations with the Baltic states. Through the accession process, the EU had particular expectations from the Baltic states in the context of minority rights. In this manner, the Forth Chapter examines the conformity of the citizenship policies and laws of Estonia, Latvia and Lithuania with the EU norms, which necessitate the respect for and protection of minority rights; and, the effects of the EU in these policies. In addition, the chapter seeks the impact of the EU in solving the minority issue and the status of ethnic Russians in particular, during the European accession process.

In the end, the Conclusion Chapter puts forward the hypothesis that despite the contribution of the EU integration process to the promotion of minority rights in the Baltic states, it would, however, be grave exaggeration to argue that the Baltic states' accession to the EU automatically solved the

problems of integration of the ethnic Russians into Estonian, Latvian and Lithuanian societies. The reason behind the abovementioned fact, what I call “partial integration”, is the Baltic states’ fear from the potential Russian influence.



## **CHAPTER II**

### **HISTORICAL FORMATION OF THE BALTIC STATES**

The examination of the origin of the Baltic nations and the evolution of the Baltic states of Estonia, Latvia and Lithuania is very important in order to understand the transformation process of these states. In addition, the domestic and international conditions of these states under the Soviet rule are vital in examining this process. In this regard, this chapter, firstly, presents a general framework beginning from the early history of the Baltic nations until the Second World War. Afterwards, the chapter examines the Soviet annexation period and the restoration of the Baltic independence in the early 1990s. The chapter also aims at focusing on the major factors which mobilized the Russian settlement in the three Baltic States and the reasons behind the current presence of ethnic Russians in the region.

#### **2.1 Origin of the Baltic Nations and the Baltic States**

The Baltic states' geographical and geopolitical position which offer access to the Baltic Sea, has been attractive for the other nations around the region. Aspirations of those who wanted to gain economic and political superiority over the region, therefore, made the Baltic nations victims on their own territory beginning from the early Middle Ages.

The Baltic nations existed in Europe together with other European nations, whom they had almost the same level of economic, social and technological conditions. However, the conditions changed by the twelfth

century. Scandinavian, German and Slav nations became more powerful and became much more interested in the Baltic lands.

From the thirteenth century onwards, all Baltic nations became under the political, economic and social domination of other nations. The first foreign domination over Estonia and Latvia was by the Swedish, followed by the Danish and German nations. Under German-Danish rule, Estonians and Latvians were forcibly converted into the medieval Catholic world by the thirteenth century.

In the fourteenth century Baltic nations became under the rule of Teutonic Order, which “established a German social, political and economic ascendancy which was to survive the dissolution of the Order and the secularization of its lands during the Reformation of the sixteenth century.”<sup>24</sup> Throughout the sixteenth and seventeenth centuries, the Baltic lands gained much more importance, since the great powers wanted to take over the patrimony of the Teutonic Knights.

The Lithuanians and their Polish allies formed the Duchy of Courland on the southern part of Livonia (southern Estonia), as the Swedes established themselves in Estonia and struggled against Russians to take the control over Livonia.<sup>25</sup> In the seventeenth century, Lithuania took control over the eastern part of Livonia. The Latvians, then, divided into two provinces, which also linked to religious divisions.

Russians invaded northern Estonia, Livonia and Latvia by the Treaty of Nystad in 1721. Afterwards, these two regions were united and constituted the

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<sup>24</sup> David J Smith, *Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*, JEMIE- Journal on Ethnopolitics and Minority Issues in Europe, Issue 1, 2003, p.11.

<sup>25</sup> David J Smith, *Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*, JEMIE- Journal on Ethnopolitics and Minority Issues in Europe, Issue 1, 2003, p.11.

modern Estonia. Afterwards, the position of the Baltic Germans and of the Lutheran Church in the Baltic provinces was declared privileged by Peter the Great. These so-called privileges were to be recognized up to Alexander II in 1856. Between these years, the German-ruled Russian Baltic provinces enjoyed a broad autonomy within the empire. In the meantime, Baltic people were subordinated to European and Russian cultural influences. The Baltic German hegemony was damaged due to the russification policy of the Tsarist government during the nineteenth century. The russification policy continued until the proclamation of independence by the Baltic states after the First World War. However, the German presence was totally eliminated during the Second World War.<sup>26</sup>

Lithuania was established in a different way than the other Baltic nations throughout the centuries. The Lithuanians owed their success to their military expertise and their rulers especially in the thirteenth and fourteenth centuries. The Lithuanian tribes united in 1248 under the Teutonic Order. In 1410, they allied with Poland to overwhelm the Teutonic Knights. Afterwards, the two countries moved together and formed the Polish-Lithuanian commonwealth in 1569. However, in 1795 Lithuania was soaked up into the Russian Empire because of the anarchic politics of its nobility and fear from powerful neighbors, such as Prussia and Austria.<sup>27</sup> Thereby, all three Baltic nations were ruled by the Russian Empire in the eighteenth century and remained under its domination for almost two centuries.<sup>28</sup>

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<sup>26</sup> David J Smith, *Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*, JEMIE- Journal on Ethnopolitics and Minority Issues in Europe, Issue 1, 2003, p.12.

<sup>27</sup> Audra Sipaviciene, "Mobility under Conditions of a Changing Socio-Economic and Geopolitical Orientation", *International Migration*, 1998.

<sup>28</sup> Audra Sipaviciene, "Mobility under Conditions of a Changing Socio-Economic and Geopolitical Orientation", *International Migration*, 1998.

Although all three Baltic states had been suppressed by the Tsarist Empire through the eighteenth century, Lithuania remained different in many aspects compared to Estonia and Latvia. For instance, while Lithuanians remained faithful to Roman Catholicism, Estonians and Latvians followed Lutheranism. Through Tsarist rule, Lithuania stayed under the influence of the Polish aristocracy. On the other hand, German ruling class had hegemony over Estonia and Latvia. In addition, whereas Estonia and Latvia were important for Russian trade and industry, Lithuania remained an agrarian country.

As stated above, Estonia and Latvia were dominated by the German aristocracy under the Russian rule until the First World War. Therefore, German population and culture were remarkably dominant in these two countries. However, in the second half of the nineteenth century population in Estonia and Latvia changed in favor of Russians due to Russian industrialization policies. The Russian population began to increase especially in the urban areas. On the other hand, Lithuania did not experience an urban growth as Estonia and Latvia did, because the level of industrialization was very limited in the country.

In the nineteenth century, the status and mentality of the Baltic populations changed tremendously. They started to give importance to education and progress. Baltic Germans, therefore, provided themselves with sources for the awakening of the Baltic nationalism in the eighteenth and nineteenth centuries, especially in the field of regional agrarian economy. Besides, Baltic Germans supported their political power vis-à-vis the Russian central government. Finally, full emancipation was declared by Estonia in 1816 and by Livonia in 1819. Moreover, the emancipation also continued in the cultural field. Notwithstanding the support of the Baltic Germans, national

consciousness gradually improved. Through the end of 1840s, these two states sustained economic security.<sup>29</sup>

The most pressing challenge was witnessed in the second half of the century as a result of the russification process of Tsarist government, followed by the decreasing German influence. Beginning from 1860's, russification process was directed to Lithuanians, especially Lithuanian peasants. As a part of this process, Russian language was made compulsory in the country by 1880s. By the early 1900s, especially Estonia and Latvia became hard to rule under the old order.<sup>30</sup>

Lithuania's development in the nineteenth century differed from the other Baltic nations. Although Lithuanian peasants had some advantages over Estonian and Latvian peasants, agricultural reforms were made relatively late in the country. In addition, Lithuania was far behind both Estonia and Latvia in terms of industrialization. Due to the effects russification process in the country, many Lithuanians emigrated overseas.<sup>31</sup>

The difference in literacy rate of Baltic nationals also influenced their stance towards nationalism. For instance, because Estonians and Latvians were capable of reaching and understanding sources for their emancipation, nationalistic sentiments were on rise in these two states. On the other hand, the literacy rate was low in Lithuania. Thus, Lithuanians were far behind the other two Baltic nations. By the beginning of the twentieth century, Baltic nationalism was regarded as a threat by the Tsarist Empire. Whereon, political

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<sup>29</sup> J. Hidden; P. Salmon, *The Baltic Nations and Europe*, the USA: Longman Publishing, 1994.

<sup>30</sup> J. Hidden; P. Salmon, *The Baltic Nations and Europe*, the USA: Longman Publishing, 1994.

<sup>31</sup> J. Hidden; P. Salmon, *The Baltic Nations and Europe*, the USA: Longman Publishing, 1994.

parties were started to be formed initially in Estonia and Latvia. Even though the formation of political parties was also witnessed in Lithuania, their national activities had to take different forms due to Tsarist repression.

The 1905 Revolution in St. Petersburg prohibited the Baltic nations from the use of local languages. Moreover, some of their leaders were sent to either exile or faced imprisonment. After 1906, delegates who were elected for the Imperial Duma (the Representative Assembly) from the Baltic nations failed to convince the Tsarist government to take the control over their own land.<sup>32</sup>

Before the outbreak of war in 1914, there was no real German threat to Russia's Baltic provinces. As a result, Baltic Germans' loyalty was never questioned. However, Russia had to change its attitude when the German armies moved into Lithuania in 1915. In 1914 and 1915, the question was whether the demands of the Baltic nations would turn into a claim for full independence or not. In 1918, all three Baltic states saw the chance of declaring their independence and becoming the masters of their own lands.

All three Baltic States established parliamentary republics in the midst of the turmoil of the collapse of the Tsarist Empire, the *October Revolution*<sup>33</sup> in 1917, and increasing Bolshevik power. Towards the end of the First World War in 1918, Estonia, Latvia and Lithuania declared their independence. However, their independence was not recognized by the Bolshevik government until the peace treaties of Tartu, Riga and Moscow were signed in 1920. The treaties

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<sup>32</sup> J. Hidden; P. Salmon, *The Baltic Nations and Europe*, the USA: Longman Publishing, 1994.

<sup>33</sup> The October Revolution in Russia refers to a revolution that began with a coup d'etat on October 25, 1917. The Russian Provisional Government was overthrown and the power was given to the Soviets dominated by Bolsheviks. The Revolution was followed by the Russian Civil War between 1917 and 1922; and the creation of the Soviet Union in 1922. Barnes; Noble, <<http://www.sparknotes.com/history/european/russianrev/section5.rhtml>> (Accessed on 12 December 2007).

ended the hegemony of the Tsarist Empire, which lasted since early 1700s until 1918. As of that period, the foreign policy of the young republics would focus on a careful balancing between the great powers, Germany and the Soviet Union in particular.

Within the abovementioned context, before making historical generalizations about the Baltic nations, the difference among Latvians, Estonians and Lithuanians should be understood. Historical differences among these three nations are often lost from view amidst the turmoil of recent events, which provides clues to the different responses given by the Baltic republics to the challenges after the dissolution of the Soviet Union. In this regard, the next section focuses on the proclamation of independence by the three Baltic states.

## **2.2 Formation of the Baltic States in the Early 20<sup>th</sup> Century**

The interwar period of independence (collapse of the Russian and German Empires during World War I) was very much important for the Baltic states, because the modern Estonia, Latvia and Lithuania emerged during this period. Estonia declared its independence on 24 February 1918 by issuing the Estonian Declaration of Independence, which demonstrated the basic principles of the new state. According to the Declaration, equality of all citizens before the law, the right to cultural autonomy of minorities, freedom of expression, religion, association and assembly were recognized.<sup>34</sup> The following year, these principles were more detailed in the 1919 Provisional Constitution. In

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<sup>34</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.17.

compliance with the 1919 Constitution, the Estonian state was based on popular sovereignty.

Likewise, Latvia announced the Declaration of the Latvian State Council Establishing a Provisional Government of Latvia and Political Platform of the Latvian State Council, which demonstrated the basic principles of the newly independent state on 18 November 1918. Political rights of minorities and civil liberties were determined by the latter. Before the adoption of 1922 Constitution, two provisional fundamental laws, the Declaration Concerning the State of Latvia and the Provisional Constitution of the State of Latvia, were implemented in 1920. Some provisions of aforementioned laws were directly re-accepted in the 1922 Constitution, which was slightly amended after coup d'état on 15 May 1934 and remained in effect until 1940. This makes Latvia unique among the other Baltic States.<sup>35</sup>

Lithuania announced its independence on 18 February 1918. Until the Soviet occupation, Lithuania adopted three constitutions in 1922, 1928 and 1938. The 1928 Constitution was implemented by a presidential decree as a result of a coup d'état in the country. The 1938 Constitution had relatively democratic character.

All three constitutions had some provisions in common. It was stated in the constitutions of the three Baltic states that each Baltic state was “independent sovereign republic in which sovereignty belongs to the people... Second, the citizens... are free and the State guarantees their freedom.”<sup>36</sup> However, the sovereignty of Estonia, Latvia and Lithuania did not last long as

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<sup>35</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.31.

<sup>36</sup> See the 1938 Constitution de la Lithuanie, published by the “Spindulys” *Société Anonyme* (1938), reviewed by Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.37.



all three states yielded to the collusion between Nazi Germany and the Soviet powers.

### **2.3 The Baltic States under the Soviet Rule**

By the end of the 1930s, some secret meetings and negotiations were conducted in Europe between Hitler and Stalin concerning the national sovereignty of the Baltic States of Estonia, Latvia and Lithuania. The Baltic States were subject to the international tensions, which led to the Third Reich and the Second World War. Because of being a buffer zone of the Soviet Union against fascism and the occupation by the imperial Germany afterwards, the Baltic States faced unbearable losses as a result of huge number of deportations and the Holocaust (which is known as killing of millions of Jews by the Nazis in the 1930s and 1940s. However, here the concept stands for the executions by the Soviets).<sup>37</sup>

The signals of an outbreak of war in Europe became visible towards the end of 1930s. The Estonian and Latvian representatives received declarations by the Soviet officials on 28 March 1939. The declarations stated Stalin's concerns about the loss of sovereignty in the Baltic region. In reality, the main concern of the Soviet Union was to lose these states to Germany. Both states replied that they would prefer staying neutral during the war.<sup>38</sup>

Due to the great tension between the Western powers and Germany, Stalin decided to conclude with the German Reich a non-aggression pact by

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<sup>37</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>38</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

reproving his relations with England and France.<sup>39</sup> In order to soften the relations with Germany, the Soviet Foreign Commissar of Jewish origin was replaced by Vyacheslav Molotov on 3 May 1939. After the recognition of Stalin's concerns, German Foreign Minister Ribbentrop gave the signal of holding secret meetings with the aim of discussing the future of Finland, Poland and the Baltic States.

Throughout the secret meetings, Stalin and Molotov demanded that Germany would not intervene with the Soviet occupation in Estonia, Latvia and Lithuania. In return, the Soviet Union would not interfere with the invasion of Poland by German forces. On 24 August 1939, the treaty, which was called as Molotov-Ribbentrop Pact, was signed between the Soviet Union and Germany.

The independence of the three Baltic states, thereby, was interrupted by the Treaty of Non-Aggression (Molotov-Ribbentrop Pact) and its Secret Additional Protocols between Germany and the U.S.S.R. on 23 August 1939. The first Secret Additional Protocol stated

[I]n the event of territorial and political rearrangements in the areas belonging to the Baltic states (Finland, Estonia, Latvia, Lithuania), the northern boundary of Lithuania shall represent the boundary of the spheres of influence of Germany and the U.S.S.R.<sup>40</sup>

The Secret Supplementary Protocol to the German-Soviet Boundary and Friendship Treaty of 28 September 1939 stated that:

[T]he Secret Supplementary Protocol signed on August 23, 1939, shall be amended in item 1 to the effect that the territory of Lithuanian state falls to the sphere of influence of the U.S.S.R.... As soon as the Government of the U.S.S.R. *shall take special measures on Lithuanian territory* (italics added) to

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<sup>39</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>40</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.19.

protect its interests, the present German-Soviet border, for the purposes of a natural and simple boundary delineation, shall be rectified in such a way that the Lithuanian territory situated to the southwest of the line marked on the attached map should fall to Germany...<sup>41</sup>

Although many scholars such as Marek<sup>42</sup> and Crawford<sup>43</sup> later argued that the Molotov-Ribbentrop Pact violated the international law; thereby, the occupations and annexations were illegitimate. On the basis of this pact, Poland was occupied by the Nazi Germany on 1 September 1939. Afterwards, the Soviet Union focused on the annexation of the Baltic states.

The Estonian Foreign Minister was given an ultimatum in which he was said that there was need for the establishment of a Soviet military base in the Baltic region for the defense of Leningrad.<sup>44</sup> In addition, Soviet Minister Molotov threatened the Estonian government through the following statement: “If the Estonian government were to fail to admit of these necessary alterations, the Soviet Union would be forced to carry them out otherwise, employing more radical measures which might prove to be unavoidable.”<sup>45</sup>

Upon this threat, the Estonian government conceded to the demands of the Soviet Union on 25 September 1939. Latvian and Lithuanian authorities

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<sup>41</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.19.

<sup>42</sup> See Krystina Marek, *Identity and Continuity of States in Public International Law*, Geneva, 1955.

<sup>43</sup> See James Crawford, *The International Law Commission's Articles on State Responsibility. Introduction, Text and Commentaries*, Cambridge University Press, 2002.

<sup>44</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>45</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

were also threatened subsequently. Consequently, Latvia on 5 October 1939 and Lithuania on 10 October 1939 conceded to Stalin's demands as Estonia did. Yet, according to sources, Stalin's main goal was to fully occupy the territories of Estonia, Latvia and Lithuania. Therefore, the Baltic states were accused of forming an alliance against the Red Army.<sup>46</sup> This accusation was used as the basis for annexation. The Soviet troops eventually were sent to the Baltic states. The three Baltic states were also occupied on the same basis as Poland. In other words, Estonia, Latvia and Lithuania had disappeared from the map after the Molotov-Ribbentrop Pact of 1939, and they would soon become part of the Soviet Union.

After the annexation, the Soviet government tried to comply with the domestic law in relation to all decisions which led to the annexation of the Baltic states. All decisions were attempted to be seen as the decisions of the local governments of the Baltic states. In other words, the decisions were made as if they had been based on the free will of the Baltic peoples. So as to prove the lawfulness of the decisions, elections were held under the presence of the Soviet troops in the three countries. Opposition candidates and nationalist leaders were withdrawn from the elections even by means of force if necessary and removed from politics. Only the official Communist Party was let represented in elections. That is to say, pro-Soviet government was forced in every Baltic state. As announced by Protocol No.56 Meeting of the Cabinet of Ministers, Declaration on Admission to the U.S.S.R. was adopted by the national parliaments of each Baltic states.<sup>47</sup>

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<sup>46</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>47</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p. 21.

Since June 1940, the Soviet secret police (NKVD) started operating in the Baltic states. Approximately three hundreds people were vanished every month. According to several research, 15,000 Estonians, 35,000 Latvians and 35,000 Lithuanians were either deported or murdered through the first years of the Soviet occupation.<sup>48</sup> There is no need to mention the losses due to the emigrations, the Second World War and on the way to the labour camps.

Through the occupation, the transportation and banking systems as well as mines and other resources were held by the Soviet Union. The right to own property was abolished. As of 1 January 1941, the Soviet Ruble was instituted as the only currency in Estonia, Latvia and Lithuania. In addition, the Catholic Church was persecuted by the Union. Furthermore, all properties were seized as property of the communist state and all monasteries were used as facilities of the Soviet army. Courses on religion were eliminated from the curriculums. Many people were hounded out of the three states because of their religious origin. This was followed by the atheist propaganda of the Union.<sup>49</sup> Aforementioned policies of the Soviet Union strengthened anti-Russian sentiments in each Baltic state.

On 22 June 1941, the Soviet Union was attacked by Germany. The German forces occupied Estonia, Latvia and Lithuania between June and August 1941. In the meantime, the Baltic states set up interim governments with the hope of recognition by Nazi Germany.<sup>50</sup> However, these countries were declared as Germany's occupied lands. After the occupation, Germany

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<sup>48</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>49</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>50</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

appointed one commissioner to each Baltic state. Besides, German officials were sent to fulfill the administrative positions in the Baltic states.

All properties of the Red Army were taken over by the German forces. Quota application for foods and goods was implemented in cities. As a result, black market grew in the Baltics. The German Mark became the only currency in these states. The circulation of newspapers decreased due to censorship. The church was under the control of Nazi forces. Although the Nazi control was relatively smooth over religion, religious institutes were not operational in Latvia as opposed to Estonia and Lithuania.<sup>51</sup>

As of July 1941, Germans benefited from Baltic people for labor and military services on voluntary basis.<sup>52</sup> However, these services were transformed into obligation for every person between eighteen and forty-five years old by a draft law. In consequence of this new regulation, over one hundred thousand people were sent to Germany for labor services.

Furthermore, the German army benefited from the Sovietized armies of Estonia, Latvia and Lithuania. In Estonia and Latvia, the Waffen SS (Schutzstaffel) National Legions were formed in 1942.<sup>53</sup> These legions were responsible for Poland, Yugoslavia and Italy. The Germans tried to form a similar legion also in Lithuania; however, they did not succeed. Instead, a Lithuanian defense force was formed. By 1942, the Lithuanians were stopped from operating. Their commander together with his one hundred staff were arrested and executed.

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<sup>51</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>52</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>53</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

Advanced elements of the German Einsatzgruppen (Special Task Forces)<sup>54</sup> and Sicherheitsdienst (Security Service of the SS)<sup>55</sup> quickly filled the void left by the advancing Wehrmacht (Armed Forces)<sup>56</sup> with the purpose of eliminating local resistance and collecting the Jewish populations for extermination.<sup>57</sup>

Due to sentiments of the Soviet retreat, local population moved all over the countries and voiced their hatred of the Bolsheviks on those who were known as Jewish. The reason behind such an attitude was the misconception of the Jewish population as Soviet supporters; or to put it differently, supporters of the Sovietization of the Baltic nations.

Ethnic Estonians, Latvians and Lithuanians became volunteers in helping German forces with the exclusion of Jewish population. The units were established out of the volunteer groups and they were instructed to commit mass executions.<sup>58</sup> By the German reoccupation, approximately five thousand Jews in Estonia, eighty thousand Jews in Latvia, and one hundred and seventy

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<sup>54</sup> These Special Task Forces were mobile assassination units that operated in German-occupied Europe. Death Camps Organization, <<http://www.deathcamps.org/occupation/einsatzgruppen.html>> (Accessed on 15 December 2007).

<sup>55</sup> Sicherheitsdienst was primarily the intelligence service of the SS and the National Socialist German Workers Party – NSDAP (a political party in Germany between 1919 and 1945). Death Camps Organization, <<http://www.deathcamps.org/occupation/einsatzgruppen.html>> (Accessed on 15 December 2007).

<sup>56</sup> Wehrmacht was the name of the unified armed forces of Germany from 1935 to 1945. Death Camps Organization, <<http://www.deathcamps.org/occupation/einsatzgruppen.html>> (Accessed on 15 December 2007).

<sup>57</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>58</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

thousand Jews in Lithuania were executed.<sup>59</sup> Besides, the German occupation also resulted in emigration and forced migration the same as the Soviet annexation of 1940. Around thirty-five thousand ethnic Estonians, Latvians and Lithuanians were either executed or sent to concentration camps in Germany.<sup>60</sup>

In 1944, the Soviet Union reoccupied most parts of the Baltic region. During the reoccupation, the Balts faced rapes, deportations and executions, notwithstanding the strong resistance by the Baltic legionnaires and partisan groups. After the annexation, these resistance groups were charged with war crimes. Most of them were deported following the Second World War. In 1944-1945 – after the withdrawal of the German troops – when the Soviets consolidated their hegemony again, 30,000 Estonians, 70,000 Latvians and 50,000 Lithuanians were either executed or deported. Stalinist terror reached its apex in 1946-1953 when – in particular because of the collectivization of agriculture – 80,000 Estonians, 100,000 Latvians and 260,000 Lithuanians died either by bullets or by the Siberian cold. The aim of these deportations was to prevent any kind of resistance towards the Soviet domination in three Baltic states.<sup>61</sup>

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<sup>59</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>60</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>61</sup> Jeroen Bult, “Everyday Tensions Surrounded by Ghosts From the Past: Baltic-Russian Relations Since 1991” in Heli Tiirmaa-Klaar; Tiago Marques (eds.), *Global and Regional Security Challenges: A Baltic Outlook*, North Atlantic Treaty Organisation, Tallinn: Tallinn University Press, 2006, p.130, <<http://www.iiss.ee/files/Baltic%20Outlook%20Final%201.pdf>> (Accessed on 13 October 2007).



## 2.4 The Baltic Non-Recognition of the Soviet Annexation

Through the annexation period, the Soviet regime was opposed by the Baltic nations in various forms. Estonia and Latvia tried to restore their independence by forming independent governments until the re-imposition of the Soviet annexation in 1944. Yet, these efforts were supported neither by the German forces on Baltic territory nor by the Western powers.<sup>62</sup>

After the reimposition of the Soviet occupation in 1944, the war of national partisans started in Estonia, Latvia and Lithuania with an extensive public support, which lasted until mid-1950s. Throughout the period, the Soviet Union attempted to restrain the resistance either by using physical or psychological means. The second method caused severe damages in the minds of the Baltic people.<sup>63</sup>

One of the attempts of the Soviet Union was the restructuring the Estonian and Latvian Communist Parties. The ruling elite were replaced by the communists from the Union. Everything was under control of the Communist Party. The only way to reach information and other resources was to be obedient to the Party. Consequently, the Soviet system very much limited free thinking in both countries. The educational programmes were also designed in a way to prevent opposition in these societies. On the other hand, the Union was not successful in changing the structure of the Lithuanian Communist Party.

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<sup>62</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>63</sup> Romuald J. Misiunas; Rein Taagepera, *The Baltic states Years of Dependence 1940-1980*, Berkeley, Los Angeles, 1983, pp.15-91

The Party in Lithuania employed all the means of the Soviets, such as funds to the advantage of the country.<sup>64</sup>

Between 1948 and 1949 more extensive deportations were realized. Many soldiers and civilians, including women and children were sent to exile. In 1949, the mass deportations obliterated the big farmers and, therefore, created resistance against collectivization of agriculture in the Baltics. The Baltic states lost approximately 30 per cent of their population between 1940 and 1953.<sup>65</sup> As a result, these deportations reinforced anti-Russian sentiments in the Baltics.

The losses, which were balanced by positioning Soviet military forces and personnel in the Baltic states, included the political and economic elite of the countries. Under the Soviet control, the economy was transformed into a centrally planned economy, agriculture was collectivized and religion was staunch. Therefore, dissidents emerged in every Baltic state.<sup>66</sup> The Soviets invested a lot in the Baltic states. Thus, the region has been industrialized and urbanized. Furthermore, relatively high-tech production was introduced. Through the industrialization and collectivization of the Baltic states, many Soviet nationals were sent to these countries as workers, especially to Estonia and Latvia.

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<sup>64</sup> Mike Hurtado, *World War II in the Baltics*, 2002, <<http://depts.washington.edu/baltic/papers/worldwar2.htm>> (Accessed on 22 April 2007).

<sup>65</sup> Norgaard, 1996, p.37, in Lowell W. Barrington, "The Domestic and International Consequences of Citizenship in the Soviet Successor States", *Europe-Asia Studies*, Vol.47, No.5, July 1995, p.137.

<sup>66</sup> See Jeanette A. Hanh; Gina Peirce, *The Baltic States: Estonia, Latvia, and Lithuania*, the Center for Russians and East European Studies, University for International Studies, University of Pittsburgh, 2005.

Consequently, living standards in the region reached above average. Armin Bohnet and Norbert Penkaitis state that Estonia and Latvia had been leading the way on socio-economic basis in the Union.<sup>67</sup> As also underlined by Ziemele, this was also one of the reasons of Russian influx in the Baltic states. The Estonians and Latvians experienced great influx of Russian migrants, who were employed in the industry, fishery and in the ports of Tallinn and Riga. These migrants were regarded as danger to Estonian and Latvian national identities. Romuald J. Misiunas stated the followings within this context:

The policies of the Soviet government through the post-war period reinforced the perception of a threat to the very national existence of the three peoples. Rightly or wrongly, development of large-scale industrial projects came to be considered, especially in Estonia and Latvia, a conscious effort on the part of the Russians to dilute and even perhaps extinguish altogether the indigenous national identities through the rapid introduction of inassimilable immigrant laborers for the most part Russians, who were viewed mostly as boorish louts.<sup>68</sup>

However, Estonians and Latvians succeeded in protecting the local culture despite the russification process of the Soviet Union. There was an information flow from outside the country, particularly from those, who fled from the country during occupation. Therefore, although there was a tight Soviet control over Estonians and Latvians, nationalist sentiments were carried on and anti-Sovietism was on rise in both countries. On the other hand, as Lithuania's economy was based on agricultural products, it was not affected by the industrialization attempts of the Soviet Union as other two Baltic states did.

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<sup>67</sup> See Dietrich Andre Loeber, V. Stanley Vardys, and Laurance P.A. Kitching, *Regional Identity Under Soviet Rule: The Case of The Baltic States*, the Association for the Advancement of Baltic Studies, No.6, N.J.: Hackettstown, Institute on the Study of Law, Politics and Society of Socialist States, 1990.

<sup>68</sup> Romuald J. Misiunas, "National Identity and Foreign Policy in the Baltic states", in Frederick Starr (ed.), *The Legacy of History in Russia and the New States of Eurasia*, M.E. Sharpe, London, 1994, p.98.

Although repression would decrease after Stalin's death, it was observed that the human rights situation remained abominable, during the Brezhnev era in particular. The Soviet occupation and russification process followed during 1970s had severe consequences for each Baltic state.<sup>69</sup>

The Baltic states, Latvia in particular, did not realize that the state was subject to the long term annexation of the Soviet Union. In the meantime, the Soviet Union tried to interpret several accords as the recognition of its new borders after the annexation. The border principle of the Helsinki Final Act of the Conference on Security and Co-operation in Europe (CSCE) in 1975 was one of these accords. In relation to the border principle in the Final Act, Western states affirmed that they could not have accepted such principles if they did not comply with the international law. In this manner, the Baltic question kept its importance for decades for many international organizations.

The Parliament Assembly of the Council of Europe (PACE) passed a decree on 28 January 1987, which stated that “the incorporation of the three Baltic states into the Soviet Union [was] a flagrant violation of the right to self-determination of peoples, and that it remains unrecognised by the great majority of the European states”. Within this context, Ziemele also states the followings:

The resolution noted that “serious violation of human rights and the right to self-determination” were taking the place and called for Soviet respect for these rights. It also noted that the borders were still not fixed in Europe after World War II and that the *Helsinki Final Act* provided for the possibility to change them in accordance with international law. PACE did not support the view that with the adoption of the *Helsinki Final Act* the post-war borders in Europe are frozen.<sup>70</sup>

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<sup>69</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.26.

Although there is a tendency of generalizing the recent history of the Baltic states, the reaction of these republics towards the Soviet annexation, or their way of coping with the Soviet regime slightly differed from each other. This difference was mostly linked to the demographic data. It is observed that the russification and sovietization policies dramatically changed the demographic, social and economic landscape of the Baltic states in favor of non-Balts in these countries, Estonia and Latvia in particular.

In Estonian case, the percentage share of Estonian population dropped from approximately 90 per cent to 60 per cent within a century due to industrialization policies of the Soviets. Through the early twentieth century, Estonians had made up 87.7 per cent of the total population. They were followed by Russians (8.2 per cent) and Germans (1.7 per cent). By the late 1980s, Estonians made up 61.5 per cent, Russians 30.3 per cent, Ukrainians 3.1 per cent, Belarusians 1.8 per cent and others 8.2 per cent of whole population.<sup>71</sup>

The demographic situation in Latvia was more problematic compared to other two Baltic states. Latvia experienced the highest population growth in Europe between 1959 and 1989 as a result of immigration from other states of the Soviet Union (due to industrialization policies of the Soviet Union). According to the 1989 data, whereas Latvians made up only 52 per cent of the population, Russians constituted 34.0 per cent, Belarusians 4.5 per cent, Ukrainians 3.4 per cent, Poles 2.3 per cent, Lithuanians 1.3 per cent, Jews 0.9 per cent, and others less than 2 per cent of the Latvian population.<sup>72</sup>

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<sup>70</sup> See Council of Europe Parliamentary Assembly Resolution 872 (1987) On the Situation of the Baltic Peoples, 28 January 1987, available at <<http://assembly.coe.int/Documents/Adopted-Text/ta87/ERES872.htm>> (Accessed on 27 August 2007).

<sup>71</sup> Estonian Institute, *Ethnic Issues in Estonia*, October 1996.

Compared to Estonia and Latvia, Lithuania did not experience such a big Russian influx from the other parts of the Union, because the country as an agrarian state did not need additional work force from the other parts of the Union. Therefore, Lithuanians have always constituted the majority in the population. To be more specific, Lithuanians made up 79.6 per cent, Russians 9.4 per cent, Poles 7 per cent, Belarusians 1.7 per cent, Ukrainians 1.2 per cent, Jews 0.3 per cent, Latvians 0.1 per cent, Germans 0.1 per cent, and others 0.6 per cent of Lithuanian population.<sup>73</sup> All these differences determined their struggle for independence between 1990 and 1991 periods.<sup>74</sup>

## 2.5 The Restoration of the Baltic Independence

Not only the Baltic states but also whole Soviet history was deeply affected by Mikhail Gorbachev's policies of *glasnost* (openness) and *perestroika* (restructuring).<sup>75</sup> Glasnost damaged the official theory of the Soviet Union. The discussions opened deep-seated complaints among national

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<sup>72</sup> Dzintra Bungis, *The Shifting Political Landscape in Latvia*, RFE/RL Research Report, Vol.2, No.12, 19 March 1993, pp.28-34.

<sup>73</sup> Walter C. Clemens, "Baltic Identities in the 1990s, Renewed Fitness", in Roman Szporluk (ed.), *National Identity and Ethnicity in Russia and the New States of Eurasia*, London: M.E.Sharpe, 1994, p.200.

<sup>74</sup> Juris Dreifelds, "Latvia in Transition", New York: Cambridge University Press, 1996, 214 pp., reviewed by Robert Legvold, *Foreign Affairs*, September/October, 1996.

<sup>75</sup> "The glasnost, or openness, unleashed by President Mikhail Gorbachev has permitted suppressed anti-Semitic instincts to appear on the public agenda, and perestroika, or economic restructuring, has opened entrepreneurial opportunities." Zvi Gitelman, "Glasnost, Perestroika and Antisemitism," *Foreign Affairs*, Spring, 1991, <<http://www.foreignaffairs.org/19910301faessay6055/zvi-gitelman/glasnost-perestroika-and-antisemitism.html>> (Accessed on 27 October 2006).

minorities. These complaints were directed not only towards the Russian majority, but also other nations in the Union. The demands of the national intelligentsia for cultural, economic and political autonomy were on the increase.<sup>76</sup>

These discussions brought two different solutions to the agenda. According to the first one, the fourteen non-Russian states would demand extensive economic and political autonomy. The first solution foresaw strong republics with a strong centre. This was favoured by Gorbachev, given that it would keep the nation together. Besides, this approach would comply with his plan for democratization. Another solution was the “dismemberment of the empire”, which would mean the reversal of Russian history.<sup>77</sup>

The most solemn dispute came from the three Baltic states of Estonia, Latvia and Lithuania. These three states tried to test the limits of Gorbachev’s “democratization”. First, economic autonomy was demanded by stating that they were supporters of *perestroika*, the decentralization of the top-heavy economy. Second, they insisted on practicing their own religions, as well as (re) writing their own history. Later on, the national languages of three Baltic states gained official ground. Finally they declared that their Communist parties would be independent from the one in Moscow. In the end, all these developments led to the inevitable talk of secession.<sup>78</sup>

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<sup>76</sup> Wayne C. McWilliams; Harry Piotrowski, *The World Since 1945, A History of International Relations*, London: Lynne Rienner Publishers, 2001, pp.495-519.

<sup>77</sup> Zvi Gitelman, “Glasnost, Perestroika and Antisemitism”, *Foreign Affairs*, Spring, 1991, <<http://www.foreignaffairs.org/19910301faessay6055/zvi-gitelman/glasnost-perestroika-and-antisemitism.html>> (Accessed on 27 October 2006).

<sup>78</sup> Wayne C. McWilliams; Harry Piotrowski, *The World Since 1945, A History of International Relations*, London: Lynne Rienner Publishers, 2001, pp.495-519.

Since *glasnost* opened the way to a critical reassessment of the Stalin era, the Hitler-Stalin pact could not have been ignored any more. On the fiftieth anniversary of the Nazi-Soviet Pact, the three Baltic governments formed a commission in order to find out the facts about the Pact. The findings of commission confirmed that the Soviet Union and Germany divided the Baltics along with Poland in order to control the region. After great extent of hesitation, official Soviet historians also confirmed the existence of the secret protocol, which violated the international law.<sup>79</sup>

In December 1989, the Communist Party of Lithuania voted to declare its independence by demanding the following from Moscow:

- (1) 'freedom and independence' on the basis of the repeal of the Hitler-Stalin pact, (2) removal of the 'occupant Soviet Army,' (3) compensation for 'the genocide of Lithuanian citizens and their exile' and environmental destruction, and (4) the establishment of friendly relations between Lithuania and the Soviet Union on the basis of the 1920 peace treaty.<sup>80</sup>

However, at this point the following question came to the fore: if Lithuania was allowed to secede from the Union, how could the other republics be prevented from demanding their independence? Therefore, Gorbachev went to Lithuania in January 1990 to persuade the population concerning the risk of secessionism. Although Moscow tried to sustain an systematic course for secession, Lithuania stated that there was nothing to negotiate. Upon these discussions, Lithuania

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<sup>79</sup> Wayne C. McWilliams; Harry Piotrowski, *The World Since 1945, A History of International Relations*, London: Lynne Rienner Publishers, 2001, pp.495-519.

<sup>80</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.28.



declared its independence instead of declaring a period of transition, different than other two Baltic states on 11 March 1990.<sup>81</sup>

On 7 February 1990, a Resolution on the Liquidation of the 1939 Germany-U.S.S.R. Agreements and their Consequences; on 11 March 1990, the Act on the Restoration of the Lithuanian State and subsequent Declaration on the Powers Entrusted to the Deputies of the Lithuanian SSR Supreme Soviet were passed by the Lithuanian authorities. The latter put emphasis on the restoration of the Lithuanian State in 1918. Furthermore, according to the Act:

[T]he Supreme Council of the Republic of Lithuania, expressing the will of the Nation, resolves and solemnly proclaims that the execution of the sovereign power of the Lithuanian State, heretofore constrained by alien forces in 1940, is restored, and henceforth Lithuania is once again an independent state.<sup>82</sup>

In order to sustain both the state and constitutional continuity, the Act on the Restoration of the Lithuanian State underlined that 1918 Act of Independence and 1920 Resolution on the Restoration of a Democratic Lithuanian State set a basis for the foundation of the Lithuanian State.<sup>83</sup>

On 15 March 1990, the Resolution by the Extraordinary Session of the Third Congress of People's Deputies of the U.S.S.R. on the Decision of March 10-12, 1990 was passed by the Supreme Soviet of the Lithuanian SSR. According to the Resolution, Lithuania's decisions were declared as being against the Soviet Constitution and therefore, Lithuania was called to guarantee

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<sup>81</sup> Wayne C. McWilliams; Harry Piotrowski, *The World Since 1945, A History of International Relations*, London: Lynne Rienner Publishers, 2001, pp.495-519.

<sup>82</sup> Reproduced in S. P. Zumbakis (ed.), *Lithuanian Independence: The Re-establishment of the Rule of Law*, the USA, 1990 in Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.38.

<sup>83</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.39.

law and order. Yet, Lithuanians moved on their way to independence in a more determined way.

The Law on the Provisional Law of the Republic of Lithuania was adopted following the suspension of the 1938 Constitution. On 25 October 1992, a new constitution, which complied with the changing political, economic and social settings, was adopted through a referendum.<sup>84</sup> The 1992 Constitution stated that the sovereignty was vested in the hands of people of the Republic of Lithuania. The constitution determined the basic provisions for executive, legislative and judicial bodies. The constitution also included a Bill of Rights.<sup>85</sup>

Following these developments in Lithuania, the other two Baltic states also declared their independence from the Soviet Union. Although the initial reaction of the Union was quite permissive, Moscow attempted a failed coup d'état.

On 30 March 1990, Estonian Supreme Council declared a Resolution on the State Status of Estonia. The Resolution declared that since “the Soviet Union had occupied Estonian territory by unlawful means, the existence of the Republic of Estonia, *de jure* (based on law), had never been suspended”.<sup>86</sup> According to the Resolution, since the Soviet control over the Estonian territory was illegal from the moment of its ratification, the restoration of the Republic

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<sup>84</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.40.

<sup>85</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.41.

<sup>86</sup> See *Resolution of the Supreme Soviet of the Estonian SSR on the State Status of Estonia*, 30 March 1990.

of Estonia was derived from *restitutio in integrum* (restoration to original condition).<sup>87</sup>

On 3 March 1991, Estonia held a referendum in the country as a response to the attempts of the Soviet government against Estonian independence movement. After the declaration of independence in the three Baltic states, the Soviet government tried to repress the progress through several means. The first argument of the Union was that the independence of the Baltic states was unlawful, since it did not comply with the Law on Withdrawal of Union Republics from the U.S.S.R., which was implemented on 3 April 1990. Therefore, Estonia, Latvia and Lithuania were asked to bring themselves into conformity with the abovementioned law.

In accordance with the Soviet 1990 Law on Secession, on 17 March 1991, a Union-wide referendum was called to keep the Soviet Union together. According to the provisions, two third majority vote was needed to secede from the Union. The Baltic states rejected to participate, though. The Soviets tried to use the army and the forces of the Ministry of Interior, the so-called “black berets” to pressurize the Baltic people.<sup>88</sup> As a result of the Soviet pressure, several people died. The Baltic states, therefore, decided to ask public opinion on their future.<sup>89</sup>

Estonia held a referendum on the basis of the following question, which was asked both in Estonian and Russian languages: “Do you want the

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<sup>87</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.28.

<sup>88</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p. 29.

<sup>89</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.40.

restoration of State sovereignty and independence of the Republic of Estonia?” After a victorious opinion poll, Estonian leaders improved their power in order to take steps on the way of independence. This was followed by the adoption of the Resolution on the National Independence of Estonia on 20 August 1991. As stated in the Resolution:

Proceeding from the continuity of the Republic of Estonia as a subject of international law,

Relying upon the strength of the Estonian population’s clear expression of will in the March 3, 1991, referendum to restore the national independence of the Republic of Estonia...

The Supreme Council of the Republic of Estonia resolves:

To affirm the national independence of the Republic of Estonia and to seek the restoration of the diplomatic relations of the Republic of Estonia.<sup>90</sup>

The Resolution was also a means of improving diplomatic relations with other states. The adoption of a new constitution by a referendum was proclaimed by this Resolution.

Meanwhile, certain articles of the 1938 Constitution had been affected on 8 May 1990 providing a necessary framework for the development of state powers in Estonia and establishment of control over immigration processes, etc. The *1938 Constitution* could not be re-effected in full because it did not fully comply with the democratic principles on the basis of which restoration of independence in Estonia was taking place.<sup>91</sup>

Estonia held a referendum in order to pass a new constitution on 28 June 1992 in which only nationals would take part. However, it was necessary to define who Estonian citizen was. Therefore, 1938 Law on Citizenship was reintroduced in order to define nationals. According to the law, those who were citizens prior to 1940 and their descendants were recognized as nationals. The

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<sup>90</sup> See *Resolution on the National Independence of Estonia*, 20 August 1991, reproduced in Estonian Ministry of Foreign Affairs, 1991.

<sup>91</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p. 30.

abovementioned legal basis of the referendum was recognized in the 1992 Law. This showed the constitutional continuity and the continuity of the Republic of Estonia. Some provisions of the Chapter II of the 1992 Constitution on Fundamental Rights, Liberties and Duties which are relevant for the nationality discussion in Estonia are examined in the Third Chapter.<sup>92</sup>

Latvia proclaimed the Declaration on the Renewal of the Independence of the Republic of Latvia, which reinstated a few provisions of the 1922 Constitution, on 4 May 1990. The Constitution, however, was suspended again by the aforementioned declaration. The suspension entailed the intent upon making amendments. The revised Constitution became highly controversial. In the end, scholars and politicians reached a compromise according to which the re-introduction of the 1922 Constitution would end the discussions on the political system and the status of Latvia since it meant the preservation of the *state continuity*.<sup>93</sup>

Similar to Estonia and Lithuania, Latvia conducted a poll on 3 March 1991 and asked the following question both in Latvian and Russian languages: Do you support the democratic and independent statehood of the Republic of Latvia? Since ethnic Latvians could barely constitute the majority in the society for the time being, Latvia's decision on such a poll was not so easy. All permanent residents who were above 18 years old and had a Soviet passport were announced eligible to vote in the poll. Only active members of the Soviet army were kept out of the voting process.

Eventually, the poll results showed that more than 70 per cent of the voters supported the democratic and independent statehood of the Republic of

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<sup>92</sup> Chapter II of the 1992 Constitution on Fundamental Rights, Liberties and Duties.

<sup>93</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.32.

Latvia. Approximately half of the non-Latvians also gave legitimacy to the Latvian government. For some scholars, among others this was because of the attraction of the Baltic states in terms of economic and cultural resources for most non-Balts. In addition, it was because Russians living in the Baltic states felt themselves different from the ones living in the Union.<sup>94</sup>

The Constitutional Law on the Republic of Latvia's Status as a State was announced on 21 August 1991 and the Soviet occupation came to an end. The Law stated that the restoration of independence should have been based on the 1920 Peace Treaty in which:

...Russia *unreservedly recognises the independence*, self-subsistency and sovereignty of Latvian State and voluntarily and *forever renounces* [sic] all sovereign rights over the Latvian people and territory which formerly belonged to Russia under the then existing constitutional law as well as under international treaties which, in the sense indicated, shall in the future cease to be valid.<sup>95</sup>

The negotiations with the U.S.S.R. could not be realized due to the dissolution of its institutions. Therefore, Latvia declared its independence and stated that "...the sovereign power of the Latvian state belongs to the people of Latvia and its sovereign state status is determined by the Republic of Latvia *Constitution* of February 15, 1922."<sup>96</sup> The Constitutional Law, therefore,

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<sup>94</sup> John B. Dunlop, *Reintegrating Post-Soviet Space*, 1993, p.67, <[http://muse.jhu.edu/journals/journal\\_of\\_democracy/v011/11.3dunlop.html](http://muse.jhu.edu/journals/journal_of_democracy/v011/11.3dunlop.html)> (Accessed on 11 February 2007)

<sup>95</sup> Article 2, the 1920 Peace Treaty of Latvia. (Citizenship Laws of Estonia, Latvia and Lithuania have been taken from <[www.legislationonline.org](http://www.legislationonline.org)>, which is an internet-based free-of-charge legislative database published and maintained by the OSCE Office for Democratic Institutions and Human Rights. In addition, the following web-sites are examined: Web-site of Estonian Presidency <<http://www.president.ee/en/estonia/constitution.php?gid=81907>>; Latvian Ministry of Foreign Affairs <<http://www.mfa.gov.lv/en/service/4727>>; Embassy of The Republic of Lithuania to Canada <<http://www.lithuanianembassy.ca/documents/Lithuanian%20Citizenship%20Law.doc>> (Accessed on 14 January 2006). Hereafter, this will not be indicated.)

corroborated the continuity of Latvian State on 18 November 1918. Yet, the Soviet government did not accept this political progression easily. Moreover, it tried to interfere in this political process in 1991.

A new parliament was elected in 1993 by the nationals of the Republic of Latvia, who were nationals of Latvia prior to 1940 and their descendants. For the time being, the only law, which determined nationality in Latvia, was the 1919 Law on Citizenship. In 1922 another constitution had been passed, which was restored on 6 July 1993. The fundamental rights of the individuals were protected by the constitution. This interpretation was very important, as a Bill of Rights was not included in the Constitution until October 1998.

From the time when independence declared by each Baltic state, although many Russians supported Estonian and Latvian independence prior to 1991, they felt themselves threatened, even persecuted. Following the independence whereas the Baltic identity became stronger, on the contrary Russian identity weakened not only in Russia and but also among Russians living in Estonia, Latvia and Lithuania.

To sum up, this chapter examined the origin of the Baltic nations, the evolution of the Baltic states, the Baltic states under the Soviet Rule, the Baltic non-recognition of the Soviet annexation and the restoration of the Baltic independence. Within this context, the following chapter examines the main principles of the constitutions of the newly independent Baltic states.

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<sup>96</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.30.

## 2.6 Conclusion

*State continuity* was underlined by each Baltic state through all legislative steps taken for the independence in the early 1990s. Estonia and Latvia went through a transition period before they adopted the last constitutions before the illegitimate Soviet occupation. The Baltic states did not regard their constitutions terminated; instead they considered the *de facto* (in practice) suspension of the constitutions as being illegitimate, because no legitimate means were used either for their suspension or termination.

Whereas Estonia declared that the constitution could be adopted by their nationals prior to 1940, Latvia announced that the democratically elected parliament was the sole organ to amend or terminate the previous constitution. On the other hand, Lithuania declared its independence without a transition period unlike Estonia and Latvia. Besides, Lithuanian authorities passed a Citizenship Law in 1989 in order to determine its citizens who were eligible to adopt or terminate the previous constitutions.

Constitutional developments slightly differed from each other in Estonia, Latvia and Lithuania. The variations in implementation could be best explained by the differences in the three countries. Whereas Latvia preserved its constitution prior to the occupation, Estonia and Lithuania made some amendments on democratic basis. Hence, although the constitutions could be considered as the beginning point for constitutional developments in Estonia and Lithuania, they were not the basis of the restoration of democracy in these countries.

Demographic characteristics were another distinction among the Baltic states. In the late 1980s, Estonia and Latvia hardly constituted the majority in



their own societies. Moreover both countries were ruled predominantly by non-indigenous Communist Parties during annexation years. As a result, attempts for the abolishment of the Soviet institutions and citizenry were much more radical compared to Lithuania.

Since the presence of the Soviet Army was profoundly sensed on the Baltic territory especially in Estonia and Latvia, the relations with Moscow were also important in the process of restoration of the independence in the Baltics. Estonia and Latvia, thus, acknowledged the necessity for peaceful negotiations for independence. Additionally, domestic politics and attitudes of the political leaders had an important place in the differences among the Baltic states. In the process of independence, all three states had two options, choice of a new state or *state continuity*. Despite the abovementioned differences, the result (a claim to *state continuity*, which was based on the principle of *restitution in integrum* in Estonia, Latvia and Lithuania) was the same in all three Baltic states.

## CHAPTER III

### THE ETHNIC RUSSIANS IN THE BALTIC STATES IN THE POST-SOVIET ERA UNTIL THE EUROPEAN UNION NEGOTIATIONS

The demise of the Soviet Union raised the minority question not only for its nationals living in the newly independent states, but also for the international community. In the post-communist Baltic states, especially Russians who had had privileged position throughout the Soviet occupation, faced significant problems following the independence of Estonia, Latvia and Lithuania. The most problematic issue was the naturalization requirements for acquiring citizenship.<sup>97</sup> In this respect, this chapter aims to examine the minority rights, citizenship and language laws in Estonia, Latvia and Lithuania from a comparative perspective between 1990 and 1997 period. Within this framework, the chapter discusses the main question “in what ways and to what extent has the claim to *state continuity* affected the formation of citizenship policies and laws in the three Baltic states?” by referring back to the discussions in the Second Chapter of the thesis.

It should be noted that as used in the domestic legislation of the Baltic states, the terms “citizen” and “citizenship” will be used to refer the notion of the legal bond between a person and a state.

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<sup>97</sup> Toivo U Raun, “Estonia: Independence Redefined”, in Ian Bremmer and Ray Taras (eds), *New States, New Politics Building the Post-Soviet Nations*, Cambridge: Cambridge University Press, 1997, p.420.

## **Estonia and Its Minorities**

Estonian and Latvian governments, as opposed to Lithuania, did not pass a citizenship law prior to their independence. As examined in the Second Chapter of the thesis, each Baltic state declared its independence from the Soviet Union by the early 1990s. Although Moscow's initial reaction was quite permissive, they attempted for a failed coup d'état. Following the Soviet coup, the Estonian Supreme Council was given a Draft Citizenship Law by a Special Citizenship Commission. The draft law could be considered as inclusive at the first instance.<sup>98</sup>

According to the Draft Law, qualified applicants for citizenship were divided into two groups. The first group was those, who were citizens prior to 16 June 1940 and their descendants. This group was granted automatic citizenship. The second group was those who were permanent residents on the date when full independence declared.<sup>99</sup> The latter group was not granted automatic citizenship, but they did not need to comply with the naturalization requirements in order to acquire the citizenship, neither. They could have been waived from several requirements, such as the knowledge of Estonian language and permanent residence of ten years. If they complied with the abovementioned requirements, they could obtain Estonian citizenship. However, the rest of the Estonian population should have fulfilled all requirements for naturalization in order to obtain citizenship.

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<sup>98</sup> See Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States*, The USA: Ashjate Publishing Company, 2005, pp.65-78.

<sup>99</sup> Lowell W. Barrington, "The Domestic and International Consequences of Citizenship in the Soviet Successor States", *Europe-Asia Studies*, Vol.47, No.5, July, 1995, p.735.

Consistent with the Draft Law, spouses of Estonian citizens had some difficulties in obtaining citizenship. They were not eligible for automatic citizenship, yet they were given an opportunity to pass their citizenship onto their descendants. The major difference with the Interwar Law was that not only fathers were given the opportunity to pass their citizenship onto their descendants but also mothers were given the right to pass their citizenship onto their descendants. Taking into consideration the abovementioned issues, as opposed to several scholars such as Lowell Barrington, it could be argued that even though the naturalization requirements were quite difficult to fulfil, the provisions for applicants for Estonian citizenship were not extremely exclusive.<sup>100</sup>

Since the Draft Law was regarded as inclusive with its provisions, it was highly criticized by the Russian minorities in the Baltic states, the Russian government and international organizations. Therefore, the Supreme Council proposed an amendment, which was not taken into account by the Special Citizenship Commission. As a result, a New Draft Law was submitted according to which only pre-1940 citizens and their descendants were granted automatic citizenship. The rest of the population had to comply with the naturalization requirements.<sup>101</sup>

Estonia implemented the Republic of Estonia Supreme Council Resolution on the Application of the Law on Citizenship on 26 February 1992 according to which the basic principals of the 1938 Law on Citizenship was reintroduced and new provisions were added for new citizens of the post-Soviet era. The Law clearly stated that Estonian citizens were those who were

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<sup>100</sup> Lowell W. Barrington, "The Domestic and International Consequences of Citizenship in the Soviet Successor States", *Europe-Asia Studies*, Vol.47, No.5, July, 1995, p.736.

<sup>101</sup> Riina Kionka, "Identity Crises in Estonian Popular Front", *RFE/RL Report on U.S.S.R.*, May 1991.

Estonian citizens prior to 16 June 1940 and their descendants. In addition to the abovementioned citizens under the 1938 Law, “children legitimized by an Estonian citizen, aliens under the age of 18 adopted by an Estonian citizen, illegitimate children whose mother was an alien and who were recognized by their natural fathers holding Estonian citizenship”<sup>102</sup> were granted citizenship according to the new law.

When constitutional provisions of the 1992 Law on Citizenship are examined in more detail; Article 8 of the Constitution needs for attention.<sup>103</sup> The Article states, “Every child with one parent who is an Estonian citizen shall have the right, by birth, to Estonian citizenship” and “no person who has acquired Estonian citizenship by birth may be deprived of it”.<sup>104</sup> The Article determines the Estonia’s citizenship policy, which is *jus sanguinis* principle<sup>105</sup>.

On the other hand, those who were permanent residents in Estonia when full independence was declared had to fulfil several naturalization requirements, which were knowledge of Estonian language, two years of permanent residence prior to application, beginning on 30 March 1990 at the

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<sup>102</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.146.

<sup>103</sup> Blaustein & Flantz, 1994, vol. VI reviewed in Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.145.

<sup>104</sup> Article 8, 1992 Law on Citizenship.

<sup>105</sup> Jus sanguinis refers to the right to citizenship derives by descent. Caroline Danielson, *Citizens Are Born/ Made*, 27 May 2004, [http://www.allacademic.com/meta/p116886\\_index.html](http://www.allacademic.com/meta/p116886_index.html) (Accessed on 20 December 2007).

latest [and one year afterwards] and an age limit of 18 years old or, if younger, the permission of parents or guardians.<sup>106</sup>

The official Law had two important differences compared to the Draft Law. First of all, those who were not granted automatic citizenship could have applied for citizenship only after two years of permanent residence, which would be counted since 30 March 1990. If the language proficiency was proved, applicant would be granted citizenship one year after application. At first glance, the law seems quite inclusive in its nature.<sup>107</sup> However, applicants could be granted Estonian citizenship in three years time at the earliest.

In addition, the law declared those who could not trace their roots back to interwar era, aliens; even if they had lived in the country since they had been born.<sup>108</sup> Furthermore, several provisions of the citizenship law were not clear, which caused arbitrariness in application procedure.<sup>109</sup> The law made automatic citizenship almost impossible to receive for approximately three-quarters of non-citizens in the country. Based on the provisions of the 1992 Law on Citizenship, 3,402 persons (700 of which had non-Estonian origin) were granted citizenship by 5 October 1992.<sup>110</sup> According to another source,

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<sup>106</sup> Article 6, 1992 Law on Citizenship of Estonia.

<sup>107</sup> See Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashjate Publishing Company, 2005, pp.65-78.

<sup>108</sup> See Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, pp.143-153.

<sup>109</sup> David J. Smith, "Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia", *Journal on Ethno politics and Minority Issues in Europe*, Germany, Issue 1, 2003.

<sup>110</sup> David J. Smith, "Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia", *Journal on Ethno politics and Minority Issues in Europe*, Germany, Issue 1, 2003.

although there were around 150,000 non-Estonians who were eligible for automatic citizenship, only 12,000 were granted citizenship by June 1993.<sup>111</sup>

In addition, 1938 Law on Citizenship,<sup>112</sup> therefore, the 1992 Law on Citizenship stated that “an Estonian citizen may not simultaneously be a citizen of another country”. In other words, those who acquired another citizenship before they were released from Estonian citizenship were automatically excluded from Estonian citizenship.<sup>113</sup> The 1992 Law on Citizenship, thereby, did not allow dual citizenship as the pre-war law.

The following year, several amendments were made to the 1992 Law on Citizenship. According to the first amendment, those who registered for citizenship before the parliamentary elections could have the several naturalization requirements waived, such as permanent residence and knowledge of Estonian language. Secondly, one of the Draft Law provisions was restored on the basis of these amendments. The amended provision allowed “the passage of citizenship through the maternal side as well as the paternal side for those with roots to pre-1940 citizens.”<sup>114</sup> These amendments were important steps towards inclusive citizenship policies, even though the provisions of the law were quite exclusive in its nature.

As stated by Helsinki Watch report in 1992

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<sup>111</sup> David J. Smith, “Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia”, *Journal on Ethno politics and Minority Issues in Europe*, Germany, Issue 1, 2003.

<sup>112</sup> Article 1, 1938 Law on Citizenship of Estonia.

<sup>113</sup> Article 23, 1992 Law on Citizenship of Estonia.

<sup>114</sup> See Lowell W. Barrington, “The Domestic and International Consequences of Citizenship in the Soviet Successor States”, *Europe-Asia Studies*, Vol.47, No.5, July, 1995.

It [the law] allows in principle a certain group of people to become citizens, but qualifies their citizenship entitlements by putting them on 'second-class' footing with 'real' Estonian citizens with respect to the most important political and economic events in the near future.<sup>115</sup>

Consequently, these inclusive amendments did not have major effects on the feelings of ethnic Russians in the country. The Russian minorities had the perception that they were not welcomed in the country.

There were several differences between citizens and non-citizen Russian minorities in Estonia. One of the most significant differences was the right to vote in parliamentary elections. With the law in 1992, non-citizens could not vote for the national elections and hold any political office.<sup>116</sup> This alienated non-Estonians, even those who supported the independence of the country.<sup>117</sup> Moreover, due to the elimination of the right to vote, no Russians were represented in the Estonian Parliament. Since the Parliament was the sole organ which passes laws, this had a direct negative effect on the lives of non-citizens in Estonia.

Some other applications in the country also emphasized the exclusive nature of the citizenship policies. For example, one of the main indicators for monitoring minorities' ability to integrate into host country is language. However, there was no clear relation between the duration of residence and the proficiency of the local language in the Baltic case. Until 1990, ethnic Russians in the Baltic states did not need to learn and use any language other than Russian. According to the 1989 census, proportion of ethnic Russians, who knew national language of the host country, was: 15 per cent in Estonia, 38 per

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<sup>115</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Martunus Nijhoff Publishers, Leiden, 2005, p.23.

<sup>116</sup> *State Assembly Passes Law on Elections*, 1992, p.71.

<sup>117</sup> See Juan Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe*, Baltimore, 1996.



cent in Lithuania and 22 per cent in Latvia.<sup>118</sup> This shows that although immigration rate was quite high during the Soviet occupation, the level of integration into the native society was limited. Put it differently, those who had lived in the country even for decades did not know the native language. Therefore, newly independent Baltic states faced the problem of having high number of ethnic minorities, who were unfamiliar with the native languages. This created an obstacle to those who wanted to acquire Estonian citizenship.

In this manner, Estonian language courses were organized by the Estonian authorities. However this was not enough, as there was lack of qualified Estonian language courses for the required amount of knowledge set by the naturalization procedures. Therefore, Estonia was criticized by Russians along with several international organizations. Although some attempts were made in the language requirements to reduce the rejection of citizenship applications, non-citizens were not given a real chance to fulfil these requirements because of inadequate facilities.

As a response to international criticisms, the new citizenship law was adopted on 19 January 1995, which brought several changes to the existing situation. According to the new law, “an Estonian citizen is a person who holds Estonian citizenship upon the entry into force of this Act or a person who acquires or resumes Estonian citizenship on the basis of the Act.”<sup>119</sup> The law stated that Estonian citizenship could be acquired either by birth, naturalization or restoration. A child could be recognized as an Estonian citizen, if at least one of his parents was an Estonian citizen<sup>120</sup>; a child born after his father’s death

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<sup>118</sup> See Audra Sipavičienė, *International Migration/ Mobility under Conditions of a Changing Socio-Economic and Geopolitical Orientation*, 1998.

<sup>119</sup> 1995 Citizenship Law of Estonia.

<sup>120</sup> Article 2, 1995 Citizenship Law of Estonia.

could be recognized as an Estonian citizen if his father was an Estonian citizen; “a child found in Estonia, whose parents are unknown, shall at request of the child’s legal guardian be recognised by a court of law as having acquired Estonian citizenship by birth, unless the child is proved to be the citizen of another state”.<sup>121</sup>

The legal institutions for the restoration of Estonian citizenship were introduced by the 1995 Law on Citizenship<sup>122</sup> according to which those who lost their citizenship as minors were given right to restore it. At this point, the right to restoration of citizenship and principle of *state continuity* came to the fore. The first principle means that those whose citizenship could not be re-effected could submit an application for restoration. The latter implies that Estonian nationality continued after the illegal Soviet occupation of 1940.

The law detailed certain requirements for the right to resume Estonian citizenship. These requirements were as follows: everyone who has lost his or her Estonian citizenship as a minor has the right to its restoration; a person who wished to resume Estonian citizenship shall be staying in Estonia permanently and be released from his or her previous citizenship or prove that he or she would be released therefrom in connection with his or her resumption of Estonian citizenship.<sup>123</sup>

The restoration of citizenship was approved by the Estonian government within one and a half year after the new law was implemented.<sup>124</sup> The law

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<sup>121</sup> Article 5, 1995 Citizenship Law of Estonia.

<sup>122</sup> Articles 1 and 16, 1995 Citizenship Law of Estonia.

<sup>123</sup> Article 16, 1995 Citizenship Law of Estonia.

<sup>124</sup> Articles 17 and 20, 1995 Citizenship Law of Estonia.

stated whose restoration could be rejected by the state authorities.<sup>125</sup> In other words, the law made selective application possible. For instance, a person who was in service of armed forces, intelligence units or security services were automatically exempted from restoration.

The 1995 Law was implemented on the basis of amended articles of the 1992 Law on citizenship concerning dual citizenship issue. The 1995 law stated that if any Estonian citizen acquired another citizenship by birth, then he had to choose one between these two. Moreover, the law clearly stated that “if any person were granted another citizenship, he would lose his other Estonian citizenship”.<sup>126</sup> It is observed that dual citizenship was not completely accepted by Estonian authorities according to the 1995 Law. However, the law opened the way to dual citizenship only for ethnic Estonians living outside the country.

It is indicated in the beginning of this section that those who wanted to obtain Estonian citizenship should have gone through a naturalization process. When these naturalization procedures are examined in detail, the following requirements are called for attention:

permanent residence; being at least 15 years old; knowledge of Estonian language in line with the requirements stated in the law; knowledge of Estonian Constitution and Law on Citizenship; permanent legal income; loyalty to the Estonian State; and taking an oath.<sup>127</sup>

The naturalization also required submission of the following documents to the Estonian authorities: an application written in Estonian language;

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<sup>125</sup> Article 21, 1995 Citizenship Law of Estonia.

<sup>126</sup> Article 29, 1995 Citizenship Law of Estonia.

<sup>127</sup> Article 6, 1995 Citizenship Law of Estonia.

certificate of identity and nationality; documents indicating legitimate stay and education and a curriculum vitae in Estonian language.

At this point, many scholars and experts, such as Barrington, discussed whether it was reasonable to ask so many documents while aiming at speeding up the naturalization process of non-citizens who were already permanent residents in Estonia. This could be considered as an attempt to limit the number citizenship which was granted to ethnic minorities according to most Russians.<sup>128</sup>

Moreover, various requirements both for naturalization and restoration of citizenship limited the number of applicants on the basis of the followings: those who have submitted false documents or have acted against the constitutional order and Estonian State; foreign military personnel either retired or in active service [the only exception applied to retired armed forces personnel of a foreign country married to an Estonian citizen by birth]; those who have been employed or are employed by the security and intelligence organisations; those who were convicted of a serious criminal offence and imprisoned for over one year, if not rehabilitated, or with a record of repeated sentencing would not be granted citizenship.<sup>129</sup>

The law separately provided the requirements for citizenship for children through naturalization process.<sup>130</sup> According to the law, a child could acquire citizenship, if one parent was Estonian citizen; if he was permanently residing in Estonia when application for citizenship took place and if he was

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<sup>128</sup> See Lowell W. Barrington, "An Explanation of the Citizenship Policies of Estonia and Lithuania", *The American Political Science Association*, New York, 1994.

<sup>129</sup> Article 21, 1995 Citizenship Law of Estonia.

<sup>130</sup> Article 13, 1995 Citizenship Law of Estonia.

either stateless or had a release from another citizenship; however under these circumstances parents had the right to choose another nationality. These requirements could have also been applied to those without parents or under a guardianship authority.<sup>131</sup>

However, there were more limitations in the first version of the Estonian citizenship law. In accordance with the previous one, only those who were born after 26 February 1992 could be granted citizenship through naturalization if their parents submitted an application and resided officially in Estonia for at least five years and if they were stateless. Single and adopted parents should have complied with the same requirements. In addition, children had to reside permanently in the country or needed to be stateless. These provisions had been highly criticized by international organizations.

Estonian parliament passed Law on Aliens in 1993. The law defined an alien as “a foreign citizen or stateless person and those identified under permanent resident category”.<sup>132</sup> The 1993 Law on Aliens put forward some differences and provided special procedures between persons who arrived and resided in the country prior to 1 July 1990<sup>133</sup> (Estonia’s process of restoration of independence), and others who were called as aliens.

The law also declared the requirements for residence and work permits in addition to conditions set for applicants. According to the law, “a permanent residence permit may be issued to an alien with a temporary residence permit

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<sup>131</sup> See Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, pp.145-154.

<sup>132</sup> Article 3 and 4, 1993 Law on Aliens of Estonia.

<sup>133</sup> Article 21, 1993 Law on Aliens of Estonia.

for no less than three years who has also met a number of other requirements.”<sup>134</sup> In addition, all aliens were entitled to alien passports<sup>135</sup> and “an alien passport shall not exceed the validity of a residence permit.”<sup>136</sup>

The law plainly stated that several cases could have been reason for refusal from residence permit, such as working in armed forces of a foreign country. The government was the sole responsible body in such cases to decide. It should be noted that only aliens who resided in Estonia prior to 1 July 1990 and had permanent address in the country “have the right to contest in a court a decision to refuse to issue or extend a residence permit or work permit”.<sup>137</sup>

Concerning family re-union, Estonian Supreme Court regulated the Constitution<sup>138</sup> and the European Convention on Human Rights (ECHR).<sup>139</sup> It should be noted that ECHR had a direct effect in the country.

The Law on Aliens was subject to several internal and external criticisms. The first problem was that permanent residence permit would not be automatically granted to Estonian resident non-citizens, who had to have first a

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<sup>134</sup> Article 12, 1993 Law on Aliens of Estonia.

<sup>135</sup> Article 8, 1993 Law on Aliens of Estonia.

<sup>136</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.151.

<sup>137</sup> Article 20, 1993 Aliens Law of Estonia.

<sup>138</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashjate Publishing Company, 2005, p.78.

<sup>139</sup> Article 8, ECHR.

temporary residence permit. As specified by the law,<sup>140</sup> persons were required to apply for residence permit within two years after Law on Aliens entered into force. It should be indicated that the Law on Aliens entered into force at the same period as the 1938 Law on Citizenship had given the opportunity for naturalization.

...Law indicated that long-term residents are issued with temporary resident permits while they undertake the naturalisation procedure. The question what to do with a residence permit, if an individual has not succeeded in naturalisation is left to the government to decide.<sup>141</sup>

The changes in registration for residence permits transferred the status of many persons into illegal aliens in the country in spite of their previous residence. According to the analysis, these illegal residents could be categorized in the following way<sup>142</sup>: aliens with permanent registration in Estonia who failed to apply for residence permit in time; aliens residing in Estonia without a registration in 1990; aliens arriving and staying in Estonia after 1991 and aliens convicted in Soviet times and now released from detention places.<sup>143</sup>

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<sup>140</sup> Article 21, 1993 Law on Aliens of Estonia.

<sup>141</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.153.

<sup>142</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.153.

<sup>143</sup> See Vadim Poleschuk, *Illegals in Estonia: Final Solution?*, Legal Information Centre for Human Rights, Tallinn, 2001.

### 3.1. Latvia and Its Minorities

The basic principles of the citizenship in Latvia following its independence were laid down by the 1919 Law on Citizenship, which was amended in 1938. Although a Draft Law was prepared in 1989, the official citizenship law was not implemented until 1994. With the declaration of Resolution on the Renewal of the Republic of Latvia Nationals' Rights and Fundamental Principles of Naturalisation on 15 October 1991, the Law was regarded as applicable:

[T]he premise according to which the citizenship question is dealt with [is] that the aggregate body of the Republic of Latvia nationals, as identified by the *1919 Law on Citizenship*, continues to exist, irrespective of the loss of the State's sovereign power in consequence of the 1940 occupation.<sup>144</sup>

In other words, those who would trace their citizenship prior to 1940 were regarded as citizens of Latvian state. Furthermore, the principle of *state continuity* was underlined also in the Latvian case, and Latvian nationality was considered persistent after the illegal Soviet occupation of 1940.

Although citizenship provisions were discussed in the resolution, they did not become operational as formal guidelines until the establishment of the national parliament. Therefore, Latvia had a citizenship policy prior to the Law in 1994. It is observed that the main reason behind the declaration of citizenship law was the desire to be considered as a member to Council of Europe (CoE).<sup>145</sup>

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<sup>144</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.155.



According to the Resolution, the Soviet citizenship of 7 September 1940 which was granted to Baltic citizens was declared as null and void. The Resolution defined the Latvian citizens as those who were citizens on 17 June 1940 and their descendants, if they had lived in the country and registered themselves by 1 July 1992; those, who did not live in Latvia or were citizens of another country, but complied with the requirements could have been registered as Latvian citizens, if an expatriation permit was received.<sup>146</sup>

Those who were not Latvian citizens prior to 1940 could have acquired citizenship whether they were permanent residents on 17 July 1940, still residing in Latvia, registered by 1 July 1992 and renounced the other citizenship; descendants of the first group of persons (who demonstrated great accomplishments to the advantage of Latvia) if they were permanent residents and registered by 1 July 1992.<sup>147</sup>

It was clearly stated in the Resolution that a Latvian citizen cannot be a citizen of another country at the same time. In other words, Latvia did not permit dual citizenship as Estonia. The 1994 Law did not change the attitude towards dual citizenship. It stated that “dual nationality may not arise for those individuals who take up Latvian nationality.”<sup>148</sup> At the same time, “if the third state accepts a Latvian national as its national, in relations with Latvia this

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<sup>145</sup> Saulius Girnius, “Lack of Citizenship Law Mars CE Membership Hope,” 1994, in W. Lowell Barrington, “The Domestic and International Consequences of Citizenship in the Soviet Successor States”, *Europe-Asia Studies*, Vol.47, No.5, July, 1995, p.738.

<sup>146</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.155.

<sup>147</sup> See Lowell W. Barrington, “An Explanation of the Citizenship Policies of Estonia and Lithuania”, *The American Political Science Association*, New York, 1994.

<sup>148</sup> Article 9, 1994 Citizenship Law of Latvia.

individual is a Latvian national only.”<sup>149</sup> Concerning the dual citizenship, the Law on the Amendments to the Latvian constitution on 4 December 1997 declared that those who hold dual citizenship cannot be elected as President of the State.<sup>150</sup>

Those who could not qualify for any categories mentioned above needed to apply for naturalization on the basis of the 1919 Law on Citizenship and Resolution. The important point here is that the 1991 Resolution never took place in practice. The new Law on Citizenship in 1994 made naturalization possible for non-citizens in Latvia.<sup>151</sup>

According to the 1994 Law on Citizenship, Latvian citizens were described as those who were citizens prior to 1940 and their descendants, unless they did not acquire citizenship of another state after the Independence Declaration on 4 May 1990; naturalized citizens [and their children upon reaching the age of fifteen, if they reside permanently in Latvia] (Amendments to the Law on Citizenship on 22 June 1998); children found in Latvia whose parents are unknown; children without any parents who lived in an orphanage or boarding school and children whose parents were nationals on the day of birth of such children, irrespective of the place of birth.<sup>152</sup>

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<sup>149</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.155.

<sup>150</sup> See Lowell W Barrington, “An Explanation of the Citizenship Policies of Estonia and Lithuania”, *The American Political Science Association*, New York, 1994.

<sup>151</sup> See Barrington, Lowell W., “An Explanation of the Citizenship Policies of Estonia and Lithuania”, *The American Political Science Association*, New York, 1994.

<sup>152</sup> Article 2, 1994 Citizenship Law of Latvia.

The law was amended in March 1995 and the following group of persons was also considered as Latvian citizens<sup>153</sup>:

Latvians and Livs, indigenous people of Latvia, who permanently reside in Latvia and who did not have other nationality or received an expatriation permit from the state of former nationality; women who permanently resided in Latvia and who, according to the 1919 Law, had lost their Latvian nationality, and their descendants, if these persons registered in Latvia, except if they acquired another nationality after 4 May 1990; persons who were permanent and registered residents and who completed their education in the Latvian language, if they were not nationals of another state or have received an expatriation permit, if required.<sup>154</sup>

The third bullet point made the legislation more inclusive by accepting those who integrated into the society in the Soviet period as citizens. Moreover, their children could also been granted citizenship according to the law.

The law laid down principles concerning the citizenship of a child as follows<sup>155</sup>, “a child is Latvian national if one parent is a Latvian national, while the other is an alien, stateless or unknown, and if he is born inside, or outside, the country but, on the day of the child’s birth, both parents or the parent with whom the child lived, were permanently residing in Latvia. Parents, however, had the right to choose another nationality in these circumstances.”<sup>156</sup> The Latvian authorities were criticized by domestic and international actors on the basis of the abovementioned principles. These criticisms are discussed in the next chapter.

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<sup>153</sup> Article 2, 1994 Citizenship Law of Latvia.

<sup>154</sup> Amendments to the Citizenship Law on 6 February 1997.

<sup>155</sup> Article 3, Amendments to the Citizenship Law on 6 February 1997.

<sup>156</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.157.

Political rights were more limited in Latvia compared to Estonia. According to the Law, non-citizens could not have taken part not only in national elections but also in local elections.<sup>157</sup> Those who did not hold Latvian citizenship could not have several professions either, such as policeman.<sup>158</sup> There were also several prohibitions on the right to have property for non-citizens.<sup>159</sup> Non-citizens were also given lesser pensions.<sup>160</sup>

Within the context of naturalization requirements, the law stated that all permanent residents in Latvia could apply for citizenship regardless of ethnicity, religion and social background through naturalization process, which necessitated “permanent residence in Latvia for a minimum of five years beginning from 4 May 1990; knowledge of Latvian language, the constitution and history; taking loyalty oath to the Republic and a legitimate source of income”.<sup>161</sup> For those who entered into the country after independence, residence requirements were counted up as of 1 July 1992, when the First Immigration Law was implemented.

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<sup>157</sup> See Law on Local Elections, 1994 in Lowell Barrington, “The Domestic and International Consequences of Citizenship in the Soviet Successor States,” *Europe-Asia Studies*, Vol.47, No.5, July, 1995, pp.745-746.

<sup>158</sup> See Constitutional Law, On the Rights and Responsibilities of Citizens and People, 1991, Article 8; On the Judicial Power, 1992, Article 14; On the Republic of Latvia Diplomatic and Consular Service, 1993, Article 2; to the law On the Police, 1994; On State Civil Service, 1994, Article 6.

<sup>159</sup> See the law on the Rights and Responsibilities of Citizens and People, 1991, Art. 9; On State and Municipal Assistance in Solving the Problem of Housing, 1993, Art. 3; the official national law, On Privatisation of Cooperative Flats, 1991, states in Article 7.

<sup>160</sup> See the law On Interim Rules of State-Paid Social Security Benefits, 1993, Article 5.

<sup>161</sup> Article 12, Amendments to the Citizenship Law on 6 February 1997.

Those who would not be permitted to apply for naturalization were also acknowledged in the Law.<sup>162</sup> According to the law, those who acted in January 1991 or later through Latvian Communist Party (LCP) or the All-Latvia Salvation Committee Party; those who served foreign security services or armed forces along with those who were sentenced more than one year were excluded from naturalization procedure.<sup>163</sup>

The law also affirmed those who had the right to naturalization through a privileged process.<sup>164</sup> Those were spouses of citizens, Lithuanian and Estonian citizens on 17 June 1940 and their descendants along with those who were sent to Latvia by force during German occupation of 1941-1945.<sup>165</sup>

In the meantime, there were some discussions concerning the issue of naturalization quotas in the country. Naturalization procedure in Latvia treated people according to their age categories. For instance, those who were born in Latvia, or entered into the country when they were minors had priority. Those who were born in the country and up to 30 years old could apply for naturalization on 1 January 1998 and the conclusion of the process was expected to be in 2001. This system was called as *window system* or *naturalization windows*.<sup>166</sup>

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<sup>162</sup> Article 11, Amendments to the Citizenship Law on 6 February 1997.

<sup>163</sup> Article 11, Amendments to the Citizenship Law on 6 February 1997.

<sup>164</sup> Article 13, Amendments to the Citizenship Law on 6 February 1997.

<sup>165</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.159.

<sup>166</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.160.

The abovementioned system was highly criticized both by local and international experts, because it limited the right to freely choose the timing of naturalization. Above all, the system would have significantly limited the number of residents who could have gained citizenship annually. The law, therefore, was sent back to the parliament for another consideration by the Latvian president in 1994.<sup>167</sup>

Although the law was more inclusive compared to the earlier policies, it was still so exclusive that it did not grant automatic citizenship to many ethnic Russians in the country. Moreover, it did not allow most ethnic Russians to apply for naturalization either. Only those who registered themselves as residents were eligible for the naturalization process. However, many persons were refused to be registered as residents in Latvia. According to data given by Lowell Barrington, “up to 150,000 people residing in Latvia were denied official residency status.”<sup>168</sup>

Concerning aliens in the country, Latvia adopted The Law on the Entrance and Residence of Foreigners and Stateless Persons (Immigration Law) on 2 July 1992, prior to the Citizenship Law. The law provided the basic principles for applying and acquiring visa and residence permit. According to the law, those, stateless persons or foreigners, who were married to a Latvian citizen would acquire a temporary residence permit. A permanent residence permit would be given if spouse was married to a Latvian citizen at least for five years. Then he could be subject to naturalization procedure. In addition,

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<sup>167</sup> See Laura Kauppila, *The Baltic Puzzle: Russia's Policy Towards Estonia and Latvia 1992-1997*, University of Helsinki, Department of Social Science History, Faculty of Social Sciences, 1999.

<sup>168</sup> Tattyana Zdanoka, adviser on citizenship issues to the Equal Rights faction of the Saeima, stated in Lowell W. Barrington, “The Domestic and International Consequences of Citizenship in the Soviet Successor States,” *Europe- Asia Studies*, Vol. 47, No.5, July, 1995, p.739.

those who started training or employment with a contract would be given a time limited residence permit. The law, however, was unclear concerning the long-term resident status in Latvia.<sup>169</sup>

The status of those who entered into the country between 4 May 1990 and 2 July 1992 was also unclear. Their status was open to arbitrary decisions of the Latvian authorities. While some authorities applied the 1990 legislation, others applied the 1992 Immigration Law. Moreover, the 1992 Law did not take into consideration the different situations; therefore, the practices were very much dependant on the will of civil servants. The Latvian Immigration and Citizenship Department – LICD, later renamed as Immigration and Citizenship Board, claimed that those who entered into the country after 4 May 1990 were considered as aliens.<sup>170</sup>

Ziemele argues,

...it would have been contrary to principles of legitimate expectations and legal certainty which should prevail in a democratic society; [since] it has to be admitted that the Immigration Law could not determine retroactively that persons who resided in Latvia before the entry into force of the Law, were such aliens.<sup>171</sup>

International organizations as well stressed their concerns in the context of human rights and humanitarian considerations about the abovementioned issue.

The 1995 Law on the Status of Former U.S.S.R. Citizens Who are Not Citizens of Latvia or any other state determined who permanent residents were

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<sup>169</sup> The Law on the Entrance and Residence of Foreigners and Stateless Persons (Immigration Law).

<sup>170</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.163.

<sup>171</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.161.

in the country. After debates in the parliament, the 1992 Immigration Law was amended in 1997 in line with the 1995 Law. Finally, the 1992 Immigration Law maintained to regulate residence permit procedures to U.S.S.R. citizens who resided in the country permanently since they acquired non-citizen passports. The Law on the Status of Former U.S.S.R. Citizens Who are Not Citizens of Latvia or any other State provided procedures to obtain passport for those residents in details.<sup>172</sup>

### **3.2. Lithuania and Its Minorities**

When Lithuania was still part of the U.S.S.R. in 1989, the Law on Citizenship was passed by the Supreme Soviet of Lithuania. The Lithuanian Law included “a provision basing automatic citizenship on the pre-Soviet period. All persons who had been citizens prior to 15 June 1940 and all their descendants living in Lithuania were automatically citizens.”<sup>173</sup>

The Law broadened the base for citizens by two provisions. First, all permanent residents born in Lithuania; or those one of whose parents or grandparents was born in the country were granted automatic citizenship, in case they did not hold citizenship of another state. Second, those who lived in Lithuania, and did not meet the first criteria could have been granted automatic citizenship in case they signed a declaration within two years. According to the declaration, those who were granted automatic citizenship should have stated that they would support the Lithuanian constitution and the laws of the Lithuanian SSR, and respect Lithuanian state sovereignty and territorial

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<sup>172</sup> The 1995 Law on the Status of Former U.S.S.R. Citizens Who are Not Citizens of Latvia or any other state.

<sup>173</sup> See Article 1, the 1989 Citizenship Law of Lithuania.



integrity.<sup>174</sup> In addition, according to a treaty signed with Russia, those who entered the country between November 1989 and 1991 were also granted automatic citizenship.<sup>175</sup> However, those who were granted Lithuanian citizenship left automatically their Soviet citizenship.<sup>176</sup>

There was no naturalization procedure for those becoming Lithuanian citizens under the 1989 Law and 1991 Treaty. After 1991, naturalization was possible if one had knowledge of the Lithuanian language, permanent residence for ten years, a permanent source of income, knowledge of and obedience to the Lithuanian constitution. In addition to these requirements, a loyalty statement had to be signed by applicants. This statement included respect for Lithuania's state language, culture, customs and traditions different than the one for automatic citizenship.<sup>177</sup> Under these circumstances, almost every person was eligible for Lithuanian citizenship.<sup>178</sup>

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<sup>174</sup> See Girnius, 1991, p. 21, in W. Rogers Brubaker, "Citizenship Struggles in Soviet Successor States", *International Migration Review*, Vol.26, No.2, *Special Issues: The New Europe and International Migration*, Summer, 1992, p 281; and O Grazhdanstve Litovskoi SSR, 1989, Article 1.

<sup>175</sup> See George Ginsburgs, "From the 1990 Law on the Citizenship of the U.S.S.R. to the Citizenship Laws of the Successor Republics (Part II)", *Review of Central and East European Law*, 1993, pp.233-266.

<sup>176</sup> Lowell W. Barrington, "The Domestic and International Consequences of Citizenship in the Soviet Successor States", *Europe-Asia Studies*, Vol.47, No.5, July 1995, p.735.

<sup>177</sup> W. Rogers Brubaker, "Citizenship Struggles in Soviet Successor States", *International Migration Review*, Vol.26, No.2, *Special Issues: The New Europe and International Migration*, Summer, 1992, p 280; and O Grazhdanstve Litovskoi SSR, 1989, Article 15.

<sup>178</sup> Lowell W. Barrington, "The Domestic and International Consequences of Citizenship in the Soviet Successor States", *Europe-Asia Studies*, Vol.47, No.5, July 1995, p.735.

Approximately 350,000 permanent residents could not be granted Lithuanian citizenship within the two-year period.<sup>179</sup> According to Ginsburg, this was due to administrative complexities.<sup>180</sup> However, Barrington argues that it was due more to choice or ignorance rather than legal exclusion.<sup>181</sup> Those who decided to keep their Soviet citizenship wanted to be loyal to fatherland<sup>182</sup>, and not to lose communication with their native land.<sup>183</sup>

After two year period ended and independence was reconstructed, Lithuanian Parliament passed a New Citizenship Law on 5 December 1991. According to the New Law, automatic citizenship was eliminated. Only those who had held Lithuanian citizenship before 1940 were granted automatic citizenship. The 1991 Law identified those who were granted Lithuanian citizenship before 15 June 1940 in detail: citizens of Lithuania prior to 15 June 1940 and their children; grandchildren of citizens prior to 15 June 1940, if they did not acquire citizenship of another state; permanent residents between 9 January 1919 and 15 June 1940 over the territory of the present Lithuania, their

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<sup>179</sup> Lowell W. Barrington, "The Domestic and International Consequences of Citizenship in the Soviet Successor States", *Europe-Asia Studies*, Vol.47, No.5, July 1995, p.735.

<sup>180</sup> George Ginsburgs, "From the 1990 Law on the Citizenship of the U.S.S.R. to the Citizenship Laws of the Successor Republics (Part II)", *Review of Central and East European Law*, 1993, p.238.

<sup>181</sup> Lowell W. Barrington, "The Domestic and International Consequences of Citizenship in the Soviet Successor States", *Europe-Asia Studies*, Vol.47, No.5, July 1995, p.735.

<sup>182</sup> "Izvestiya," (20 April 1991), p.2 in Lowell W. Barrington, "The Domestic and International Consequences of Citizenship in the Soviet Successor States", *Europe-Asia Studies*, Vol.47, No.5, July 1995, p.735.

<sup>183</sup> "Nezavisimaya gazeta," (16 July 1992), p.3 Lowell W. Barrington, "The Domestic and International Consequences of Citizenship in the Soviet Successor States", *Europe-Asia Studies*, Vol.47, No.5, July 1995, p.735.

children or grandchildren, if they continued to reside in Lithuania and were not nationals of another country; and, those of Lithuania origin who left prior to 16 February 1918, if they did not acquire another nationality.<sup>184</sup>

In 1991 another decree was passed by the Lithuanian Parliament. According to the decree, those who were granted Lithuanian citizenship automatically renounced their Soviet Union citizenship.<sup>185</sup> Persons who acquired another nationality under laws in effect prior to the 1991 Law, i.e. under the 1989 Law, constituted another group of individuals. These two groups of nationals are distinguished in the law. “Persons specified in item 1 hereof shall be at their request issued passports of citizens of the Republic of Lithuania or documents confirming the right to citizenship of the Republic of Lithuania in accordance with Article 17 of the Law.”<sup>186</sup> The Article indicates that:

The right to citizenship of the Republic of Lithuania shall be retained for an indefinite period for: (i) persons who were citizens of the Republic of Lithuania prior to 15 June 1940, to their children and grandchildren (provided that said persons, their children and grandchildren have not repatriated from Lithuania) who are residing in other states; (ii) persons of Lithuanian origin who are residing in other states.<sup>187</sup>

The Law made a distinction between acquiring Lithuanian citizenship and restoring citizenship. The latter was applied to those who were denounced from the citizenship or acquired another citizenship.

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<sup>184</sup> Article 1, 1991 Citizenship Law of Lithuania.

<sup>185</sup> See the Supreme Council Resolution, *On the Procedure for Implementing the Republic of Lithuania Law on Citizenship*, 1991, Article 7.

<sup>186</sup> Article 1, 1991 Citizenship Law of Lithuania.

<sup>187</sup> 1991 Citizenship Law of Lithuania.

Concerning dual citizenship applications, Lithuania did not have different attitude from Estonia and Latvia. As the other two Baltic states, Lithuanian citizens with other citizenship should have denounced the second. The law on Conditions of Implementing the Right to Citizenship of the Republic of Lithuania or Restoring Citizenship of the Republic of Lithuania clearly stated that “persons specified in paragraph 1 of part 1 of Article 17 of this Law shall implement their right to citizenship of the Republic of Lithuania upon refusing citizenship of another state.”<sup>188</sup> A similar requirement was also applied to children of those who moved to Lithuania.<sup>189</sup>

The Articles declared that Lithuanian citizens who held another citizenship could only acquire their Lithuanian citizenship by denouncing the other. However, under any circumstances they would not need any visa or they would not be subjected to immigration procedures.<sup>190</sup> Hence, the Law affected the matter of continuity of Lithuanian citizenship, in other words the *state continuity* principle. This application was also criticized by the CoE as unsatisfactory. It was made clear by the Constitutional Court that the 1989 Law on Citizenship and another provision of the law prohibited dual citizenship. There was one exception for those who were Lithuanian citizens prior to 15 June 1940 and their descendants. On the other hand, the 1991 Law made this decision provisional upon the denial of another citizenship.<sup>191</sup>

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<sup>188</sup> Conditions of Implementing the Right to Citizenship of the Republic of Lithuania or Restoring Citizenship of the Republic of Lithuania.

<sup>189</sup> Article 18, para.2, 1991 Citizenship Law of Lithuania.

<sup>190</sup> Article 17, 1991 Citizenship Law of Lithuania.

<sup>191</sup> See Letter No.15/3-10-1550 from Ms Daiva Vezikauskaite, Head of Division on Citizenship Matters, 31 January 2002 in Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.169.

Concerning the children's application to citizenship, those who fulfilled the following requirements were granted Lithuanian citizenship: children whose parents were Lithuanian citizen on the day of their birth; one of whose parents was Lithuanian citizen on the day of their birth; one of parents was permanent resident on the day of their birth; if both parents lived outside Lithuania, they could decide on child's citizenship within 18 years from the birth; above provisions were applicable to those one of whose parents was stateless or unknown; those whose parents were stateless, but resided permanently in Lithuania.<sup>192</sup>

Compared to the 1989 Law, there was not a huge difference between the naturalization requirements. Whereas the requirements for automatic citizenship were inclusive, the naturalization process was quite demanding in Lithuania. The Law declared the requirements in order to acquire Lithuanian citizenship as follows: "ten years of permanent residence in Lithuania; knowledge of Lithuanian language and Constitution; a legitimate source of income and not being in possession of another nationality".<sup>193</sup>

In the 1991 Law, those who were granted citizenship should have signed a loyalty document similar to the one in 1989. The most important difference is the following addition to the Article 12: "Persons meeting the conditions specified in this Article shall be granted citizenship of the Republic of Lithuania taking into consideration the interests of the Republic of Lithuania."<sup>194</sup> Barrington argues that this addition was seen as declaring the possibility for denial of naturalization of eligible people.<sup>195</sup> The Article also

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<sup>192</sup> Articles 8-9-10, 1995 Amended Citizenship Law of Lithuania.

<sup>193</sup> Article 12, 1991 Citizenship Law of Lithuania.

<sup>194</sup> Article 12, 1991 Citizenship Law of Lithuania.

demonstrated that interest of the state was very much important while granting citizenship. However, provision above seems open to interpretation. This is one of the weaknesses of the Lithuanian Citizenship Law.

The Constitutional Court clearly stated that “neither the occupation army personnel nor the personnel of any other foreign forces could be considered as permanent residents or legal employees.”<sup>196</sup> The list was detailed in the law. According to the law “those who committed crimes against humanity, genocide or other offences against Lithuania; before coming to Lithuania have been tried for a deliberate crime which was punishable under Lithuanian laws or were sentenced to imprisonment in Lithuania; and, chronic alcoholics or drug addicts or ill with dangerous infectious diseases were prohibited granting citizenship.”<sup>197</sup> In addition,

those who organized or involved in deportations or suppressed resistance after 15 June 1940 as well as those who acted against Lithuanian independence after 11 March 1990 could be challenged for naturalization in case these acts could be approved by a court until 1995.<sup>198</sup>

The law also declared that “the invalidation of citizenship could be decided by the President. Yet, it was not clear whether decision was subject to the judicial scrutiny or not.”<sup>199</sup>

The Lithuanian Supreme Council passed another decree in 1992 and made the citizenship procedures easier for children and grandchildren of ethnic

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<sup>195</sup> Lowell W. Barrington, “The Domestic and International Consequences of Citizenship in the Soviet Successor States”, *Europe-Asia Studies*, Vol.47, No.5, July 1995, p.735.

<sup>196</sup> Case No. 7/94 of 13 April 1994 E.E.C.R.C.L., p.245.

<sup>197</sup> Article 13, 1991 Citizenship Law of Lithuania.

<sup>198</sup> Article 23, 1991 Citizenship Law of Lithuania.

<sup>199</sup> Article 31, 1991 Citizenship Law of Lithuania.

Lithuanians living outside the country.<sup>200</sup> In 1993 the Supreme Council made an additional amendment, which affected the status of the emigrants. According to the amendment, those who applied for Lithuanian citizenship should have renounced citizenship of other countries.<sup>201</sup> In addition, if children of emigrants had citizenship of another country, they could not be qualified for automatic citizenship. With this amendment in the Law, several provisions were eliminated and dual citizenship was allowed under a few circumstances. In the same year, language requirements were made easier for elderly and disabled people with another amendment. Beginning from 1993, those stated above did not need to take the language test for naturalization process.

Regulations on aliens in the country first adopted by the Law on the Legal Status of Foreigners in the Republic of Lithuania in 1991 in order to regulate migration issues. The law stated “persons possessing citizenship of a foreign state, as well as stateless persons shall be qualified as foreigners”.<sup>202</sup> The Law also made a distinction among the permanent residents and others. Those who had Lithuanian citizenship, but did not renounce citizenship of another state were regarded as foreigners. Yet, they were subject to the right to permanent residence. Persons who entered into Lithuania during annexation period were considered as foreigners, unless they did not want to be *de facto* citizens. Ziemele claims that “the *Law* initially required that these persons and all other permanent residents submit passports and other equivalent documents to respective authorities for receiving a departure permit (Art. 31).”<sup>203</sup>

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<sup>200</sup> Amendments to 1991 Citizenship Law of Lithuania, 1992.

<sup>201</sup> Article 18, Amended 1991 Citizenship Law of Lithuania, 1993.

<sup>202</sup> Article 1, 1991 Law on the Legal Status of Foreigners in the Republic of Lithuania.

The Law on the Status of the Diplomatic Missions of the Republic of Lithuania Abroad protected the rights of the Republic of Lithuania and its citizens abroad. “Unlike legislation in Estonia and Latvia, neither this law nor the Law on the Legal Status of Foreigners in the Republic of Lithuania extends diplomatic protection to foreigners who are stateless or reside permanently in Lithuania”.<sup>204</sup> According to data of the Division on Citizenship Matters of the Lithuanian Ministry of Internal Affairs, 87.9 per cent of the residents acquired Lithuanian citizenship on the basis of the 1989 Law.<sup>205</sup>

### 3.3. Conclusion

The pre-1940 Estonian Citizenship Law was implemented in the 1990s in line with the *state continuity* principle. According this principle, since Estonian citizenship was obtained by birth and neither the Estonian Constitution nor the 1938 Law on Citizenship was repealed by any authority, the Soviet occupation of Estonia could not end the Estonian citizenship. Therefore, all Estonian citizens who were defined by the 1938 Law and their descendants, even those living in the third states were considered as Estonian citizens.

The continuity of Latvian citizenship as stated in 1919 was maintained in the Latvian citizenship legislations as in Estonia. According to the

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<sup>203</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.171.

<sup>204</sup> Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p. 172.

<sup>205</sup> Division on Citizenship Matters of the Lithuanian Ministry of Internal Affairs in Ineta Ziemele, *State Continuity and Nationality: The Baltic States and Russia*, Leiden: Martunus Nijhoff Publishers, 2005, p.172.



legislations, since Latvian citizenship continued together with the continuity of the state, Soviet citizenship was null and void. The 1991 Resolution, underlined the restoration of the rights of Latvian citizens which had been deprived due to Soviet annexation.

The 1989 Law on Citizenship regulated the citizenship matters in Lithuania. The same as Estonian and Latvian laws, Lithuania citizenship laws were based on the principle of *state continuity* according to which the citizenship link was not ceased with the Soviet occupation of 1940. In relation to the law, those living in Lithuania were given the right to choose for citizenship on the basis of fulfilling several requirements, such as permanent residence and legitimate source of income. Moreover, those who were citizens before 1940 and their descendants were regarded as *ipso facto* citizens if they continued to live in Lithuania when the 1989 Law came into effect. Descendants of Lithuanian citizens who served in the Soviet army were not excluded from the citizenship, only their U.S.S.R. citizenship was declared as null and void.

At first glance, Lithuania seems to adopt different citizenship policies compared to Estonia and Latvia. This is commonly linked to the demographic situation in the three Baltic states. While in the first half of 1990s, 80.6 per cent of Lithuanian population composed of ethnic Lithuanians, the percentage of ethnic Estonians and Latvians was very limited in their countries. When comparing Estonia and Latvia, Lowell Barrington states that perception of Estonians “as a ‘dying out nation’” in line with the demographic data, partly explains the exclusiveness of the citizenship policies.<sup>206</sup>

It is well documented in the literature that several factors affected the demographic situation in the Baltic states. For example, despite the industrial

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<sup>206</sup> Lowell W. Barrington, “The Domestic and International Consequences of Citizenship in the Soviet Successor States”, *Europe – Asia Studies*, Vol.47, No.5, July 1995, p.137.

potential and low birth rate in Estonia and Latvia, strong position of the Catholic Church in Lithuania supported to keep families strong and large.<sup>207</sup> On the other hand, refugee flows, deportations, detention and wide-ranging immigration and emigration of the occupation years were very much affected the composition of the Estonian and Latvian societies in a negative way as explained in the Second Chapter of the thesis.

Within the abovementioned context, what lies beneath the citizenship understanding of the Baltic states is the concept of *state continuity* as a result of the Soviet occupation of 1940. According to this concept, the independence of the Baltic States was not established, instead it was restored. Likewise, citizenship was not established anew. Therefore, automatic citizenship was granted to only those who were citizens prior to the annexation.

Different citizenship application in the three Baltic states had several effects on identity along with political, economic and social rights of people living in these states. Those who were not granted automatic citizenship felt alienated from the rest of the population and lost their feeling of belonging to society. This brought European involvement in Estonia and Latvia in particular. The recommendations of European organizations, such as the CoE and the EU were taken into consideration in return for security and economic aids. As a result, these efforts made the citizenship policies of the Baltic states less exclusive. However, the changes in policies did not make significant changes in the discontent of ethnic Russians in Estonia and Latvia. Within this context, the laws and regulations on the status of residents in the Baltic states in relation to the European conditionality over this particular problem is examined in the following chapter.

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<sup>207</sup> Norgaard, 1996, pp. 169-174 in Lowell W. Barrington, "The Domestic and International Consequences of Citizenship in the Soviet Successor States", *Europe – Asia Studies*, Vol.47, No.5, July 1995, p.137.

## CHAPTER IV

### THE EUROPEAN INTEGRATION PROCESS AND ITS EFFECTS ON MINORITY RIGHTS OF THE BALTIC STATES

By the late 1990s, the EU started the negotiation process of the three Baltic states, Estonia, Latvia and Lithuania. Through the accession negotiations, the countries started to implement the terms of the *acquis communautaire*. At this point, the EU involvement into the process of transition of the Baltic states came to the agenda. One of the most pressing issue areas in which the EU involved was the minority rights, language and citizenship laws. Within the abovementioned context, this chapter intends to make an analysis of the EU accession process and the effects of this process on language and citizenship policies and laws of the Baltic states. In this regard, this chapter firstly examines the EU enlargement process and the EU position in terms of minority rights. Secondly, it focuses on the changes in the citizenship policies and laws of the Baltic states. Finally, this chapter interrogates the appropriateness and the effectiveness of the European conditionality over the nationality question of the Baltic states.

#### **4.1 The EU Enlargement and the EU Position on the Ethnic Russians in the Baltics**

The process of the EU enlargement has taken shape by taking into account the existence of newly independent post-Communist East Central

countries in Europe.<sup>208</sup> Put it differently, the EU preferred the “pull” attitude towards the Central and Eastern European countries (CEEC). The idea behind this attitude was to make former communist countries to adopt Western political and economic values and, thereby, to sustain the stability in Europe. In this manner, the EU drew new boundaries between CEEC on the one hand, and the Commonwealth of Independent States (CIS) on the other, because “‘New’ Europe is ostensibly an ‘economic, political and philosophical programme’ rather than a geographical concept”.<sup>209</sup> Within this context, the three Baltic States were classified as Central European states after their independence, and they were regarded as the potential EU member states.<sup>210</sup>

Together with the accession negotiations, the countries started to implement “the EU criteria for new membership, the ‘Copenhagen criteria’, set political, economic, legal and administrative hurdles in the way of the Central and Eastern European countries on the path to accession”<sup>211</sup> before they could

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<sup>208</sup> Karen E. Smith, “Western Actors and the Promotion of Democracy”, in Zielonka and Pravda (eds.) *Democratic Consolidation in Eastern Europe*, Oxford University Press, 2001, pp. 31-57. On EU enlargement as an ‘order-building project’, see also P. Aalto, “Post-soviet Geopolitics in the North of Europe”, in M. Lehti and D. J. Smith (eds.), *Post-Cold War Identity Politics. Northern and Baltic Experiences*. London: Frank Cass, 2003, in David J. Smith, *Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*, JEMIE- Journal on Ethnopolitics and Minority Issues in Europe, Issue 1, 2003, p. 3.

<sup>210</sup> Karen E. Smith, “Western Actors and the Promotion of Democracy”, in Zielonka and Pravda (eds.) *Democratic Consolidation in Eastern Europe*, Oxford University Press, 2001, pp. 31-57. On EU enlargement as an ‘order-building project’, see also P. Aalto, “Post-soviet Geopolitics in the North of Europe”, in M. Lehti and D. J. Smith (eds.), *Post-Cold War Identity Politics. Northern and Baltic Experiences*. London: Frank Cass, 2003, in David J. Smith, *Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*, JEMIE- Journal on Ethnopolitics and Minority Issues in Europe, Issue 1, 2003, p. 3.

<sup>211</sup> Moritz Schularick, “Six months to Copenhagen: Convergence process supports road map for enlargement”, *Deutsche Bank Research EU Enlargement Monitor*, July, 2002, <[http://www.dbresearch.com/PROD/DBR\\_INTERNET\\_EN-PROD/PROD000000000044337.PDF](http://www.dbresearch.com/PROD/DBR_INTERNET_EN-PROD/PROD000000000044337.PDF)> (Accessed on 11 October 2007).

become eligible for membership. At this point, the involvement of the EU into the process of transition of the Baltic countries came to the fore. Yet, the level of their involvement varied according to country and issue. One of the most pressing issue areas was the minority rights. In this regard, the EU was in line with the other international organizations, such as OSCE and CoE.

The minority issue gained significance especially after the collapse of communism in Central and Eastern Europe. Through the 1990s, the EU member states started to contend with the principle of human rights particularly through the Maastricht and Amsterdam Treaties. The EU emphasized the role of the human rights and minority protection in the enlargement process. In so doing, the EU would sustain stability both in its neighbor states and within the future boundaries of the Union.<sup>212</sup>

In order to realize this aim, the EU has encouraged candidate states to make policy changes and legislative reforms in political and economic issues through the Copenhagen criteria of 1993.<sup>213</sup> However, the Copenhagen criteria is criticized because of its vagueness by some scholars.

Concerning Copenhagen criteria and EU conditionality Gwendolyn Sasse states the followings<sup>214</sup>:

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<sup>212</sup> Peter Vermeersch, "Minority Policy in Central Europe: Exploring the Impact of the EU's Enlargement Strategy", *The Global Review of Ethnopolitics*, Vol.3, No.2, January, 2004, pp.3-19, <[http://www.ethnopolitics.org/ethnopolitics/archive/volume\\_III/issue\\_2/vermeersch.pdf](http://www.ethnopolitics.org/ethnopolitics/archive/volume_III/issue_2/vermeersch.pdf)> (Accessed on 23 September 2007).

<sup>213</sup> Peter Vermeersch, "Minority Policy in Central Europe: Exploring the Impact of the EU's Enlargement Strategy", *The Global Review of Ethnopolitics*, Vol.3, No.2, January, 2004, pp.3-19, <[http://www.ethnopolitics.org/ethnopolitics/archive/volume\\_III/issue\\_2/vermeersch.pdf](http://www.ethnopolitics.org/ethnopolitics/archive/volume_III/issue_2/vermeersch.pdf)> (Accessed on 23 September 2007).

<sup>214</sup> Gwendolyn Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUI Working Paper RSCAS No. 2005/16, 2005.

The first Copenhagen criterion of 1993, which spell out the political conditions of EU membership, enshrined ‘the respect for and protection of national minorities’ as a condition for accession, and the Commission has regularly monitored the compliance with this criterion. While minority issues have been at the forefront of the enlargement rhetoric and are often singled out as a prime example of the EU’s positive stabilizing impact in CEE, the EU has in fact promoted norms which lack a basis in EU law and do not directly translate into the *acquis communautaire*.

“EU conditionality has anchored minority protection in the political agenda of the candidate states, but the EU had little to offer in terms of substantive guidance, as the lack of benchmarks, inconsistencies and the limited scope for follow-up on implementation in the Regular Reports<sup>215</sup> demonstrates.”<sup>216</sup> Therefore, “the EU conditionality in the area of minority protection is best understood as the cumulative effect of different international institutions”<sup>217</sup>. The changes in the citizenship laws and naturalization requirements of the Baltic states show how the EU is in cooperation with the OSCE, HCNM and the CoE.<sup>218</sup>

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<sup>215</sup> “The Commission’s annual Regular Reports, following on from the Opinions of 1997 and the Accession Partnerships, have been the EU’s key instrument to monitor and evaluate the candidates’ progress towards accession. The Reports have a formulaic structure, which broadly follows the Copenhagen criteria and thereby permits cross-country comparisons. The explicitly stated objective of the Regular Reports is to review each candidate country according to ‘the rate at which it is adopting the *acquis*’.” Gwendolyn Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUI Working Paper RSCAS No. 2005/16, 2005.

<sup>216</sup> Gwendolyn Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUI Working Paper RSCAS No. 2005/16, 2005.

<sup>217</sup> Gwendolyn Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUI Working Paper RSCAS No. 2005/16, 2005.

<sup>218</sup> Gwendolyn Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUI Working Paper RSCAS No. 2005/16, 2005.

In 1995, the Framework Convention for the Protection of National Minorities (FCNM) was adopted by the EU. However, the uniformity of monitoring activities was negatively affected due to lack of any common definition of the term “minority”. Therefore, the definition was subject to the description of individual states.<sup>219</sup> Hence, double standards would occur in the approaches of such organizations.

In the Conference on the Human Dimension of the OSCE, possibility of establishing a universalistic and comprehensive system on minority rights was proposed. This proposal included the promotion of positive rights in addition to the avoidance of discrimination. “It also provided for the dispatch of missions of experts to designated states at the behest of other OSCE members and – under certain circumstances – without the consent of the state concerned.”<sup>220</sup>

Western organizations also made a clear theoretical distinction between “historically rooted ‘indigenous’ minority groups residing within their borders and recent immigrants.”<sup>221</sup> The latter group have been identified as “‘ethnic’/‘new’/‘immigrant’ rather than ‘national’ minority – which is to say that they are not deemed to have any valid claim to language rights and self-government powers necessary to maintain [themselves] as a distinct societal culture.”<sup>222</sup> Characteristically, small groups are expected to integrate into the larger society.

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<sup>219</sup> David J Smith, *Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*, JEMIE- Journal on Ethnopolitics and Minority Issues in Europe, Issue 1, 2003, p.4.

<sup>220</sup> David J Smith, *Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*, JEMIE- Journal on Ethnopolitics and Minority Issues in Europe, Issue 1, 2003, p.4.

<sup>221</sup> David J Smith, *Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*, JEMIE- Journal on Ethnopolitics and Minority Issues in Europe, Issue 1, 2003, p.8.

Regarding the EU enlargement, Karen Smith argues that signals of the West are confusing in the sense that democratization and minority rights have not always been the priority with regard to the decisions for the enlargement of the EU.<sup>223</sup> Likewise, Gwendolyn Sasse argues,

minority issue lacked a firm foundation in EU law and concise benchmarks. The minority rights have never been an internal EU political priority. The question of what constitute a ‘national minority’ and the nature of minority rights are deeply disputed in international politics and law<sup>224</sup>.

Hence, especially Estonia’s and Latvia’s progress in relation to the EU has depended on their performance in the field of economic transformation, “which rested partly upon the political marginalization of the Russian-speaking settler population”<sup>225</sup> and “in turn has been an important factor in the preservation ethno-political stability”.<sup>226</sup> Graham Smith states that “the position

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<sup>222</sup> Will Kymlicka, “Estonia’s Integration Policies in a Comparative Perspective”, contribution to A. Laius, I. Proos and I. Pettai (eds.), *Estonia’s Integration Landscape: From Apathy to Harmony*, Avatud Eesti Fond and Jaan Tõnissoni Instituut, Tallinn, 2000. Accessed via web at <[http://www.jti.ee/et/hr/integratsioon/kymlicka\\_eng.html](http://www.jti.ee/et/hr/integratsioon/kymlicka_eng.html)>. On the distinction between ‘national’ and ‘ethnic’ minority see also: W. Kymlicka, *Multicultural Citizenship*, Oxford: Oxford University Press, 1995, pp.10-14.

<sup>223</sup> Karen E. Smith, “Western Actors and the Promotion of Democracy”, in Zielonka and Pravda (eds.) *Democratic Consolidation in Eastern Europe*, Oxford University Press, 2001, pp.13-15.

<sup>224</sup> Gwendolyn Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUI Working Paper RSCAS No. 2005/16, 2005.

<sup>225</sup> See David J. Smith, *Estonia: Independence and European Integration*, London: Routledge, 2001, pp.113-146.

<sup>226</sup> David J Smith, *Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*, JEMIE- Journal on Ethnopolitics and Minority Issues in Europe, Issue 1, 2003, p.8.



of the Baltic States has been [supported due to their geopolitical position compared to] the other post-Soviet states.”<sup>227</sup>

The legal status of Russian speaking minorities or stateless persons, therefore, remained one of the important challenges of the EU enlargement. “The European Commission has explicitly referred to the problems of the integration of Russian-speakers in its Regular Reports of 1998, 1999 and 2000 on the progress of Estonia and Latvia towards accession.”<sup>228</sup> Some of these problems were possibility of visa-free travel, right to access to job opportunities in other member states and right to participate in the European Parliament elections. However, such issues were not actually dealt with during the accession negotiations. The reason why the EU ignored these problems was that they probably believed that the accession to the EU would automatically solve the integration of the Russian speaking minorities into Estonian and Latvian societies.

It was expected by some scholars that better protection would be provided to the non-titular communities by the European institutions. In this framework, many scholars stated their optimistic views. One of these scholars was Dmitri Trenin, who argues, “Hundreds of thousands of ethnic Russians will be quickly integrated into the new interethnic communities of the Baltic countries. The Baltic Sea Coast will see new “Euro-Russians” [Because of this,

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<sup>227</sup> Graham Smith, “Transnational Politics and the Politics of the Russian Diaspora”, *Ethnic and Racial Studies*, 22/3, 1999, p.514.

<sup>228</sup> See the Regular Reports of 2000 from the European Commission on Estonia’s and Latvia’s progress towards accession at: <[http://europa.eu.int/comm/enlargement/dwn/report\\_11\\_00/pdf/en/es\\_en.pdf](http://europa.eu.int/comm/enlargement/dwn/report_11_00/pdf/en/es_en.pdf)> and <[http://europa.eu.int/comm/enlargement/dwn/report\\_11\\_00/pdf/en/lv\\_en.pdf](http://europa.eu.int/comm/enlargement/dwn/report_11_00/pdf/en/lv_en.pdf)> (Accessed on 18 November 2006). (Hereafter, all Regular Reports are taken from <<http://ec.europa.eu>>)

the non-titular population of the Baltic states react to the prospect of joining the EU with greater enthusiasm than the indigenous population].”<sup>229</sup>

However this does not reflect the real situation in Estonia and Latvia. Statistical research showed that stance of the Russian speaking minorities was not really different from the indigenous population.<sup>230</sup> Even, ethnic conflict and discrimination in the societies ended up with negative attitude among ethnic Russians towards the EU accession. For instance, while 34 per cent of non-Latvians were in favour of the EU accession, 53 per cent of ethnic Latvians intended to vote in favour of it according to the survey of 2003.<sup>231</sup> Non-Latvians without citizenship were concerned more about the accession. It means that Russian speaking community did not see the EU as the protector of their rights.

According to Estonian and Latvian Constitutions, only those who hold citizenship were eligible for participating in the voting procedure for the EU accession. As a result, approximately 20 per cent of both Estonian and Latvian populations were not given the right to express their view on the scheme of the EU accession. The regions where Russian speaking population resided in both countries were the least favoured for the accession. Therefore, Russian speaking population became more Eurosceptic; in other words they had severe

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<sup>229</sup> Dmitri Trenin, *Baltic Chance: The Baltic States, Russia and the West in the Emerging Greater Europe*, Washington, 1997, p.37.

<sup>230</sup> Piret Ehin, “Determinants of public support for EU membership: Data from the Baltic countries”, *European Journal of Political Research*, Vol.40, No.5, 2001, p.51.

<sup>231</sup> Latvian European Integration Bureau, “Attitude in Society Toward Latvia’s European Union Membership: Survey Result Analysis”, July, 2003, <[http://www.eib.gov.lv/latvija-europa/eng/eu\\_report\\_july.doc](http://www.eib.gov.lv/latvija-europa/eng/eu_report_july.doc)> (Accessed on 21 June 2007).

concerns about the process of European integration.<sup>232</sup> The EU was not thought that it would improve the legal status of ethnic minorities. Besides, some thought that the accession would cause further isolation in Baltic societies. This situation could be explained with the lenient approach of the European Commission and continued pressure of the Russian Federation in tandem with the uncertainties of the consequences of enlargement.<sup>233</sup>

When the legislation of the EU on ethnic minorities is examined in detail, it is observed that according to the EU Race Equality Directive,<sup>234</sup> any direct or indirect discrimination in an extensive range of areas such as employment, education and access to goods and services was prohibited based on race or ethnic origin.<sup>235</sup> “It does not cover difference of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals or stateless persons on the territory of Member States.”<sup>236</sup> In line with Article 3.2 of the Directive, the Directive does not pertain “any treatment which arises from the legal status of the third country nationals and stateless persons.”<sup>237</sup> However, in spite of

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<sup>232</sup> Marc Weller, “ECMI Working Paper”, *European Centre for Minority Issues*, No.20, 2004, p.31.

<sup>233</sup> Marc Weller, “ECMI Working Paper”, *European Centre for Minority Issues*, No.20, 2004, p.31.

<sup>234</sup> Articles 1-2-3.1, EU Race Equality Directive.

<sup>235</sup> Article 1-2 and 3.1, Directive 2000/43, OJ, 2000, L180/24.

<sup>236</sup> Marc Weller, “ECMI Working Paper”, *European Centre for Minority Issues*, No.20, 2004, p.17.

<sup>237</sup> Marc Weller, “ECMI Working Paper”, *European Centre for Minority Issues*, No.20, 2004, p.17.

abovementioned restrictions to the scope of the Directive, it states limited requirements concentrating on eliminating discrimination against ethnic minorities.

In relation to the Directive, member states should guarantee individual rights. Those who are subject to any discrimination have the right to apply for either administrative or judicial procedures. If an applicant has a proof of discrimination, the burden of proof moves to respondent. Applicants are to be protected against unfair treatment.<sup>238</sup> As stated by the Directive, member states are obliged to disseminate information on the anti-discrimination in collaboration with non-governmental organizations (NGOs).<sup>239</sup> In addition, a separate body should be set up in order to promote equal treatment. In addition, effective sanctions should be provided against those who are against anti-discrimination legislation.<sup>240</sup>

As mentioned above, there is no specific legislation which regulates the legal status of the great number of non-citizens in the EU. Therefore, non-citizens in the member countries are regarded as third-country nationals. In this respect,

it can be mentioned that Article III-158 of the Draft Treaty Establishing a Constitution for Europe explicitly refers to the fact that stateless persons shall be treated as third-country nationals whereas no references to statelessness can be found in the existing treaties.<sup>241</sup>

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<sup>238</sup> Article 9, Directive 2000/43, OJ, 2000, L180/25.

<sup>239</sup> Article 10-12, Directive 2000/43, OJ, 2000, L180/25.

<sup>240</sup> Article 13-15, Directive 2000/43, OJ, 2000, L180/25.

<sup>241</sup> Marc Weller, "ECMI Working Paper", *European Centre for Minority Issues*, No.20, 2004, p.32.

“According to the ECJ’s established case-law, third country nationals – including stateless persons – cannot autonomously rely on the provisions concerning free movement of persons.”<sup>242</sup> “All rights they have in this area depend on a family relationship with a migrant national of an EU Member State”<sup>243</sup> or “an employment contract with an EU Member State established enterprise providing services in another Member State.”<sup>244</sup> On the other hand, “third-country nationals and stateless persons are explicitly included in the personal scope of most EC legislation on social security rights.”<sup>245</sup> “The ECJ confirmed the lawfulness of this situation on the basis of the international obligations of the Member States and the objectives of the social security regulations.”<sup>246</sup>

The Treaty of Amsterdam set up significant terms concerning the legal status of the third-country nationals on 1 May 1999. In addition to the

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<sup>242</sup> EJC, case 238/83, *Meade*, judgment of 5 July 1984, [1984] ECR 2631, para.7.

<sup>243</sup> See Article 10 of Regulation 1612/68 on freedom of movement for workers within the Community, OJ, 1968, L257/2; Art.1 of Council Directive 73/148 EEC on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provisions of services, OJ, 1973, L172/14 and Art. 2 of Council Directive 90/364 EEC on the right of residence, OJ, 1990, L180/26.

<sup>244</sup> ECJ, case C-113/89, *Rush Portuguesa*, judgment of 27 March 1990, [1990] ECR I-1417, para.12’ ECJ, case C-43/93, *Vander Elst*, judgment of 9 August 1994, [1994] ECR I-3803, para.21.

<sup>245</sup> Regulation No.3 concerning social security for migrant workers, OJ, 1958, 30/561 and Art.2 of Regulation 1408/71 on the application of social security schemes to employed persons and their families moving within the Community, OJ, 1971, L149/2.

<sup>246</sup> Marc Weller, “ECMI Working Paper”, *European Centre for Minority Issues*, No.20, 2004, p.32.

Amsterdam Treaty, the October 1999 Tampere European Council<sup>247</sup> adopted significant guidelines concerning the legal status of the third-country nationals. Accordingly, the EU should guarantee fair treatment to the third-country nationals who legally live in a member state. As stated by the EC, “a person who has resided legally in a Member State for a period of time to be determined and who holds a long-term residence permit, should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by EU citizens”.<sup>248</sup> Additionally the Council supported the long-term residents to be granted citizenship. Abovementioned conclusions of the October 1999 Tampere European Council already drafted when the accession negotiations began with Estonia.

These conclusions were followed by a proposal for a Council Directive on the legal status of third-country nationals and stateless persons.<sup>249</sup> The proposal concerned third-country nationals who legally reside in a member state and those who were born in a member state.<sup>250</sup> These provisions should have been implemented by all member states before 23 January 2006.<sup>251</sup>

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<sup>247</sup> Presidency Conclusions of the Tampere European Council (15-16 October 1999), *Bull. EU*, 10, 1999, I-2 in Marc Weller, “ECMI Working Paper”, *European Centre for Minority Issues*, No.20, 2004, p.33.

<sup>248</sup> Marc Weller, “ECMI Working Paper”, *European Centre for Minority Issues*, No.20, 2004, p.33.

<sup>249</sup> European Commission, Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents, *COM (2001)*, 127 final, 13 March 2001.

<sup>250</sup> European Commission, Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents, *COM (2001)*, 127 final, 13 March 2001.

<sup>251</sup> Article 26, *Council Directive 2003/109*. The only exceptions were the United Kingdom, Ireland and Denmark.

According to the proposal for acquisition of long-term resident status, the main criterion for obtaining long-term resident status must be the duration. The Commission determined the duration as permanent residence of five years.<sup>252</sup> However, the following requirements were set by the European Parliament:

It seems wrong to make a minimum period of residence the sole criterion for the award of 'long-term resident' status. In the interest of the speeding up integration of third-country nationals with long-term resident status, integration-related requirements should also be imposed.<sup>253</sup>

This meant that integration was really important in obtaining the long-term resident status. An adequate knowledge of the national language was determined as one of the most important criteria for integration. All these suggestions were given place in the Article 5 of the final text. According to the Article, "Member States may require third-country nationals to comply with integration conditions, in accordance with national law".<sup>254</sup>

Council also abolished the initial of granting long-term resident status to those who were born in a member state only on the basis of five years of permanent residence requirement. In line with the final Directive, third-country nationals were subject to additional requirements, such as sickness insurance. Besides, "Member States may refuse to grant long-term resident status on grounds of public policy or public safety". "The notion of public policy and public security also covers cases in which a third-country national belongs to an association which supports terrorism, supports such an association or has

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<sup>252</sup> The proposal has been accepted in the Directive, Article 4.

<sup>253</sup> European Parliament, Report on the Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents, A5-0436/2001, 6.

<sup>254</sup> European Parliament, Report on the Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents, A5-0436/2001.

extremist aspirations”.<sup>255</sup> In order to acquire this status, the long-term residents who fulfil all requirements, such as regular income should apply to the authorities. It is noteworthy that the EC long-term resident status set several provisions in order to protect the rights of third-country nationals along with stateless persons.

According to the October 1999 Tampere European Council,<sup>256</sup> the EU should guarantee fair treatment to the third-country nationals who legally live in a member state. Based on the Council Directive, it was proposed by the Commission that equal treatment in a broader context – economic, social matters including access to employment and education – should have been provided. It was noted by the European Parliament that “harmonisation in the form of equal status would do away with any incentive to seek citizenship of the host Member State, a step which third-country nationals should be encouraged to take with a view to fostering integration”<sup>257</sup>

On the basis of this approach, several proposals were presented in the Council. Finally, the principle was included in the Final Directive with some restrictions. For example, member states were given the right to put some restrictions concerning employment in line with the national laws and Community legislation. Accordingly, some employment positions may be opened only to the EU or European Economic Area (EEA) nationals or persons may be asked proficiency in local language.<sup>258</sup>

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<sup>255</sup> Council of the European Union, Brussels, 10 June 2003, 10214/03 MIGR 45, 9.

<sup>256</sup> Presidency Conclusions of the Tampere European Council (15-16 October 1999), *Bull. EU*, 10, 1999, I-2 in Marc Weller, “ECMI Working Paper”, *European Centre for Minority Issues*, No.20, 2004, p.33.

<sup>257</sup> European Parliament, Report on the proposal for a Council Directive concerning the status of third-country nationals who are long-term residents, A5-0436/2001, 9.



Another chapter which concerns long-term residents was the right to reside in another member state more than three months. According to the Directive, a long-term resident can enjoy the right to reside in another member state under three conditions: as workers in an employment or freelance employment capacity; studying or taking vocational training; or possession of sufficient sources to reside in another member state. Long-term residents should apply for a residence permit within three months after entering another member state. Several documents, such as evidence of adequate resources, can be asked from persons. However, several restrictions were implemented by the Council concerning the right to reside in another member state in line with the national laws. For example, these persons may be asked to fulfil integration process like attending language courses. After receipt of long-term residence status in another member state, the right to equal treatment can be exercised.<sup>259</sup>

Protection against expulsion was another issue which was related to status of long-term residents. If a long-term resident poses a serious threat to national security or public order, then he can be expelled by member state by taking into account several conditions such as duration of stay. The initial Directive also states that judicial protection and legal assistance to those who lack sufficient income could be provided. However, the final version of the Directive brought some limitations concerning supplementary protection measures. Moreover, additional limitations were introduced by the Council on the right to equal treatment between third-country nationals with long term resident status and the EU nationals.<sup>260</sup>

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<sup>258</sup> Marc Weller, "ECMI Working Paper", *European Centre for Minority Issues*, No.20, 2004, p.33.

<sup>259</sup> Marc Weller, "ECMI Working Paper", *European Centre for Minority Issues*, No.20, 2004, p.33.

Estonia and Latvia adopted new legislations consistent with the Race Equality Directive during the EU accession process. Moreover, the governmental bodies were also designed in relation to the anti-discrimination as required by the EU. However, these developments were criticized by the international observers as ineffective. For instance, European Commission stated that “the capacities of ombudsman, in particular as regards to protection of minorities need to be reinforced”.<sup>261</sup> Likewise, the UN Committee on the Elimination of Racial Discrimination and OSCE High Commissioner on National Minorities criticized the legislations. These criticisms are examined in the following sections in detail.

#### **4.2 Estonia’s Integration into the EU and the Ethnic Russians**

When the ethnic Russians in Estonia decided to become citizens of the newly independent republic, Russia began to complain about the rights of these ethnic minorities. The international community was highly criticized by the Russian Federation that they did not give enough importance to the violation of the rights of Russian speaking minorities especially in Estonia and Latvia. Moscow’s concerns increased especially after the EU accession. This issue has been identified as one of the most important issues of the Russian Federation in the context of the EU enlargement as stated by the Medium-Term Strategy for the development of relations between the Russian Federation and the EU (2000-2010).<sup>262</sup>

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<sup>260</sup> Marc Weller, “ECMI Working Paper”, *European Centre for Minority Issues*, No.20, 2004, p.40.

<sup>261</sup> European Commission, *2000 Regular Report on Estonia’s Progress Towards Accession*, 8 November, 2000, p.21.

In response to Russia's complaints, the Estonian authorities asked international organizations to examine the status of ethnic Russians in the country.

As in the past, the government was responsive to suggestions to make its laws affecting the local Russian speakers more liberal. Yet, given Russia's use of human rights rhetoric for geopolitical objectives as well as Estonia's memory of the recent Soviet past, seen as the Russian occupation, there was a continuous tension between the attempts by international actors to support minority rights and Estonia's attempts to preserve what was seen as endangered national identity.<sup>263</sup>

Due to this tension, the laws concerning the national identity and minority rights became subject to international pressure, and, therefore, these laws had to be amended several times. The developments between 1993 and 2003 in general, 1997 and 2003 periods in particular, show the patterns of the aforementioned amendments.

Despite the impact of measures concerning naturalization process that were adopted during the pre-accession process, a significant number of people lingered stateless. According to the Estonian Statistical Bureau, 21 per cent of the Estonian population remained stateless.<sup>264</sup> Estonian authorities, therefore, were expected to take further steps on the way of reducing the number of non-citizens in their countries. For most scholars, the priority should have been given to children of non-citizens after the restoration of independence.

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<sup>262</sup> Marc Weller, "ECMI Working Paper", *European Centre for Minority Issues*, No.20, 2004, p.28 and [http://www.europa.eu.int/comm/external\\_relations/russia/russia\\_russian\\_medium\\_strategy](http://www.europa.eu.int/comm/external_relations/russia/russia_russian_medium_strategy).

<sup>263</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashgate Publishing Company, 2005, p.78.

<sup>264</sup> <http://www.stat.ee> and <http://www.cbs.lv> (Accessed on 14 February 2007).

According to the Estonian legislation, if parents of non-citizen children apply to the authorities, their children would be granted citizenship.<sup>265</sup>

The abovementioned issue was also one of the main criticisms of the EC and OSCE. According to OSCE, children of non-citizens who are under fifteen years old and had been born in the country after independence would be automatically granted citizenship. Due to desire for the membership to the EU, these suggestions were incorporated in the Citizenship Law in 1997. However, the decision was condemned by the right-wing domestic actors in the country. Their argument was that such an amendment in the Citizenship Law might weaken the Estonian language; and, thereby, reduce the incentive for non-citizens to learn the language and to be integrated into Estonian society. In other words, it was argued that such amendments would lead to disintegration of the society and serve the interests of Russia. The 2001 Commission Report on Estonia showed the limited results of the amendments in the citizenship laws. The report stated that only 338 minors received citizenship in Estonia on the basis of the amendments in the legislations.<sup>266</sup>

Regardless of the restrictive Citizenship Law of Estonia, the CoE decided to end the monitoring process in the country. Yet, due to Russia's complaints, the PACE passed a resolution according to which the Russian language schools would be supported by the Estonian state.<sup>267</sup> In addition, improvement in the standards of Estonian language courses given to Russian

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<sup>265</sup> Article 3, Latvian Law on Citizenship; and Article 5, Estonian Citizenship Act.

<sup>266</sup> Regular Report from the Commission on Estonia's Progress towards Accession, COM (1999) 504, 13; Regular Report from the Commission on Estonia's Progress towards Accession, SEC (2001) 1747, 21; Regular Report from the Commission on Latvia's Progress towards Accession, SEC (2002) 1405, 30.

<sup>267</sup> See Tarmu Tammerk, "Council of Europe Ends Estonia Monitoring", *Baltic Times*, 6 February 1997. For details, see Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States*, The USA: Ashjate Publishing Company, 2005.

speakers in the country and reduction in fees of these courses were the other issues which were raised by the CoE. However, the decisions of this international body were highly criticized by the Russian government, since Russian authorities thought that persecution towards their minorities were still remaining.

In response to these criticisms and complaints, both the OSCE High Commissioner Max van der Stoel and Swedish authorities stated that Estonia was willing to follow the international recommendations concerning the minority laws and policies of the country. These were the developments which led to the start of the EU accession negotiations for Estonia in July 1997, even before the other two Baltic states, Latvia and Lithuania. Whilst the EU Commission consulted Estonian authorities that the citizenship laws were still too restrictive; and this would cause discrimination of the ethnic minorities.<sup>268</sup>

At this point, several suggestions were made to speed up the integration process in Estonia. One of them came from a rapporteur from the EU Parliament, Jørn Donner, in which he suggested Estonia to declare itself as bilingual.<sup>269</sup> Although the suggestion was supported by the Russian authorities, it was highly criticized in Estonia. It even caused polarization in the society along the ethnic lines.<sup>270</sup>

In this regard, right-wing politicians released the following statement:

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<sup>268</sup> See Dzintra Bungs, *The Baltic States: Problems and Prospects of Membership in the European Union*, Baden Baden, 1998, p.26.

<sup>269</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States*, The USA: Ashgate Publishing Company, 2005, pp.79-80.

<sup>270</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States*, The USA: Ashgate Publishing Company, 2005, p.81.

The Republic of Estonia, restored under the principle of legal continuity, should not retreat from nation-state politics of citizenship, language, and aliens. Language and citizenship policies and complicated demographic issues resulting from genocide carried out during the Soviet occupation should not be solved at the expense of the interest of the nation.<sup>271</sup>

By this means, they brought the historical discourse on the agenda once more.

On the other hand, those who supported abovementioned amendments stated that it would speed up the integration of the ethnic Russians into Estonian society, it would be of helpful to Estonian-Russian relations; and it would fulfill the recommendations of the European Commission on the way to the EU membership. The latter was so important that the membership to the EU was seen as a guarantee for ensuring security in Estonia under potential Russian threat. Notwithstanding the fact that the EU was seen as the main protector for the independent Estonia, it was also stated that the local authorities would decide where to and when to end these amendments.<sup>272</sup> In the same year (in 1998), “the Estonian Parliament amended the Language Law, the Parliament Election Act, and the Local Government Election Act.”<sup>273</sup>

Estonia adopted the Estonian National Integration Policy in 1998. The policy did aim at focusing on specific issues, instead of directly adopting the recommendations of international organizations. According to the draft policy, speeding up naturalization; sustaining proficiency in the Estonian language and

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<sup>271</sup> “Russia’s Policies Slammed”, *Baltic News Service*, 5 February 1998 in Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States*, The USA: Ashgate Publishing Company, 2005, p.81.

<sup>272</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States*, The USA: Ashgate Publishing Company, 2005, p.82.

<sup>273</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States*, The USA: Ashgate Publishing Company, 2005, p.82.

integrating ethnic Russians into the politics were set as the main goals. The policy was criticized due to some vagueness in defining the notion “integration”.<sup>274</sup>

In the same year, Bases of the Estonian State Integration Policy was approved by the Parliament. The policy stated that “there were two cultural communities in Estonia. [Integration does not cause any] change in ethnic identity but [it advances] the removal of barriers that hinder many non-Estonians from participating fully in Estonian society.”<sup>275</sup> In order to remove these barriers, the state “had to ensure that both communities could preserve their languages and their cultures.”<sup>276</sup>

In 2000, the State Programme of Integration in Estonian Society 2000-2007 was approved. In this document, the vagueness in the definition of “integration” was removed. It was defined as a bilateral process in which Estonians and ethnic Russians were given the right to preserve their own identities on the one hand, and, they were united by a common goal, which aimed the harmonization of the society or to other.<sup>277</sup> The main goal for the Estonian authorities was to preserve the Estonian nation. The international actors also involved in the development process of the aforementioned programme. Estonia was given foreign aid from several actors, such as the EU

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<sup>274</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States*, The USA: Ashgate Publishing Company, 2005, p.82.

<sup>275</sup> Estonian Parliament, “The Bases of the Estonian State Integration Policy”, <<http://www.meis.ee>> (Accessed on 25 October 2006).

<sup>276</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States*, The USA: Ashgate Publishing Company, 2005, p.85.

<sup>277</sup> State Programme Integration in Estonian Society 2000 – 2007, <<http://www.riik.ee/saks/ikomisjon/programme.htm>> (Accessed on 12 September 2006).

and the United Nations Development Programme (UNDP) to implement the programme.

In 2000, minor amendments were implemented in the Citizenship Law of Estonia in favor of disabled and young residents. Yet, the international pressure became more severe in 2001, especially in the area of political participation and representation. In Estonia, minorities were underrepresented in state institutions. According to the research conducted by Open Society Institute in 2001, Russian speaking minorities constituted only 9 per cent of whole judges and 6 per cent of civil servants at the Ministry of Internal Affairs. Moreover, there were not any Russian speaking minority working at the Ministry of Justice and Ministry of Education.<sup>278</sup> Minorities were also underrepresented in municipal councils and judiciary. The under-representation in these state institutions created distrust among minorities concerning the functions of these institutions.<sup>279</sup>

The major reasons for the underrepresentation especially in elected bodies, such as city councils, were the requirements of language proficiency and citizenship. Therefore, it was stated by the international organizations that additional measures should have been taken by the Estonian authorities. According to the amendments, those who would like to run in the elections had to be fluent in the Estonian language. In this way, the Parliament attempted to increase eagerness in learning the official language. However, although the EU made possible to ask for proficiency in native language for non-citizens in the member states, this was criticized by the international actors. Therefore the

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<sup>278</sup> “Monitoring the EU Accession Process”, *Open Society Institute*, Hungary, 2002.

<sup>279</sup> “Monitoring the EU Accession Process”, *Open Society Institute*, Hungary, 2002.



amendments were disapproved in the Second Annual Report of the EU Commission on Estonia's Progress in October 1999.<sup>280</sup>

In addition, the abolition of the language requirements for elected officials was declared as the main component for the closure of OSCE mission in Estonia. Since, the mission was seen as the symbol of ethnic tension in the country, Estonians wanted the mission to be closed. Thus, the Parliament abolished the utmost degree of language requirements in response to international pressure, but made the Estonian language as the only language of the Parliament in 2001.<sup>281</sup> Aside from aforementioned obstacles, Estonian Constitution clearly stated that citizenship was the fundamental prerequisite for political participation. Estonian Constitution also stated that all permanent residents could vote in the local elections.<sup>282</sup>

One year later, Parliament passed a decree and declared the Estonian language as the official language of also the local councils and governments. The reason behind such an amendment was to promote the usage of the Estonian language in regions where ethnic Russians were densely populated. This attitude would be understandable. When the data of several surveys are examined, it is observed that after the restoration of the independence in Estonia by the late 1990s only one fourth of the ethnic Russians were able to speak the Estonian language.<sup>283</sup> In 2003, minor amendments were made in the

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<sup>280</sup> "Monitoring the EU Accession Process", *Open Society Institute*, Hungary, 2002.

<sup>281</sup> Uldis Ozolins, "The Impact of European Accession Upon Language Policy in the Baltic States", *Language Policy*, Vol.2, No.3, October, 2003, p.224.

<sup>282</sup> Article 156, Estonian Constitution; and Article 101, Latvian Constitution.

<sup>283</sup> See Triin Vihalemm, "Usage of Language as a Source of Societal Trust", in Marju Lauristin and Mati Heidmets (eds), *The Challenge of the Russian Minority: Emerging Multicultural Democracy in Estonia*, Tartu, 2002, p.203.

Estonian Language and Citizenship Laws. In this context, fees for the language courses abolished for successful contenders and application process was shortened.<sup>284</sup>

Estonia became the member of the EU in May 2004. In mid-2004, 81 per cent of the total population received Estonian citizenship. However, the language issue remained as Estonia's one of the major problems. The majority of ethnic Estonians assumed that their state would be endangered whether language requirements are abolished. On the other hand, ethnic Russians in the country criticized the emphasis on language education of the State Programme as conflicting with international norms.<sup>285</sup>

### **4.3 Latvia's Integration into the EU and the Ethnic Russians**

In 1998, elderly ethnic Russians protested the Latvian government because of the increase in the utility rates. Upon this demonstration, Russian government threatened Latvia to impose economic sanctions in March 1998. At this point, the need for the EU membership for security reasons came onto agenda in Latvia.<sup>286</sup> In fact, Russia's reaction was harsh; especially when taking into account the fact that the demonstrators themselves did not made any complaints about the case. However, Russia's attempts were aiming at calling for international attention to the issue. Whilst many people from the various

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<sup>284</sup> See M. McConnell, "Minister: More Encouragement for Naturalization Needed", *The Baltic Times*, 31 July 2003.

<sup>285</sup> "Implementation of State Programme 'Integration in Estonian Society 2000 – 2007'", Report of the Government of Estonia, May 2001, pp.60-61, <<http://www.riik.ee/saks/ikomisjon/word/report.doc>> (Accessed on 12 September 2006).

<sup>286</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashgate Publishing Company, 2005, p.117.

segments of the Latvian society, such as politicians and academicians, also declared their dissatisfaction with the low rates of naturalization. As a result, Latvian elites started to consider making amendments in the citizenship law.<sup>287</sup>

Albeit the amendments concerning naturalization process during the pre-accession, as Estonia, a significant number of people also lingered stateless in Latvia. According to the statistical bureau, the number of stateless population composed 12.5 per cent of Latvian population.<sup>288</sup> Latvian authorities, therefore, were asked to take further steps in order to reduce the number of non-citizens in their countries.

The first discussion point was granting citizenship to the children who had been born in Latvia to non-citizen parents. While some group of people wanted to adopt so-called *zero option*, others thought that the adoption of such an option would cause severe problems concerning the future of the Latvian nation in the long run. The Cooperation Council, which was “an institution tasked with forging an inter-party agreement on how to amend Citizenship Law,”<sup>289</sup> proposed amendments which included abolishing the so-called *window system*, simplifying the language test for elderly people, granting automatic citizenship to children who had been born after 21 August 1991 and turned their sixteen. These changes were welcomed by the EU. Although several amendments were made in the legislation, only 7.156 minors received

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<sup>287</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashgate Publishing Company, 2005, p.117.

<sup>288</sup> <<http://www.stat.ee>> and <<http://www.cbs.lv>> (Accessed on 14 February 2007).

<sup>289</sup> <<http://www.stat.ee>> and <<http://www.cbs.lv>> (Accessed on 14 February 2007).

Latvian citizenship on the basis of the amendments according to the 2002 Commission Report on Latvia.<sup>290</sup>

When these changes were being taken place, many Latvians thought that international organizations could not fully understand what had been experienced in Latvia in the past. Yet, in order to secure the country against Russia; put it differently to avoid from Russia's threat on economic sanctions, Latvians thought that they needed to be part of the international organizations, the EU in particular. Therefore, the recommendations of these organizations on minority rights and citizenship law should have been taken into consideration. However, most Latvians felt that their sovereignty was threatened, since the abovementioned amendments were made due to Russian pressure.

The international pressure had three unintended consequences in Latvia<sup>291</sup>: As emphasized by Budryte, first of all, a resolution, which denounced the Soviet occupation, was ratified by the Latvian Parliament.<sup>292</sup> This was followed by the ratification of another resolution. "The second resolution included demands that the 'Declaration of Occupation' be distributed at the United Nations and that the International Court of Justice 'issue a consultative opinion about the U.S.S.R.'s occupation of Latvia'."<sup>293</sup>

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<sup>290</sup> Regular Report from the Commission on Estonia's Progress towards Accession, COM (1999) 504, 13; Regular Report from the Commission on Estonia's Progress towards Accession, SEC (2001) 1747, 21; Regular Report from the Commission on Latvia's Progress towards Accession, SEC (2002) 1405, 30.

<sup>291</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashgate Publishing Company, 2005, p.119.

<sup>292</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashgate Publishing Company, 2005, p.119.

... Having given in to international pressure to amend the Citizenship Law, the Latvian parliamentarians wanted to teach the international community about Latvia's Soviet past. They yearned for international recognition of the Latvian interpretation of the Soviet past, an interpretation that was rejected by Russia.<sup>294</sup>

Secondly, a national referendum was held in 1998 in order to prevent the amendment which opened the way of granting automatic citizenship to all children who had been born in Latvia. This referendum increased the tension in the country. Right-wing politicians argued that such an amendment would increase the demands from Russian side and, thus, threaten the national sovereignty. On the other hand, the non-governmental organizations, other major political parties and international organizations disagreed with the right-wingers. Whilst the EU restated that the integration of non-citizens into Latvian society was one of the key criteria to start the accession negotiations. In the end, more than 50 per cent of electorate voted in favor of the liberalization of the law.<sup>295</sup>

The last unintended consequence of the international pressure was the politicization of the Latvian language.<sup>296</sup> According to the Language Law of 1992, people were given chance to prefer either using Latvian or Russian language to perform their professions in public organizations. Yet, in 1995 government intended to amend the law, thereby it proposed a draft law which made the

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<sup>293</sup> "Constitution Watch: Latvia", *East European Constitutional Review* 7, No.3, 1998, <<http://www.law.nyu.edu/eecr/vol7num3/constitutionwatch/latvia.html>> (Accessed on 14 July 2007).

<sup>294</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashgate Publishing Company, 2005, p.119.

<sup>295</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashgate Publishing Company, 2005, p.120.

<sup>296</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashgate Publishing Company, 2005, p.120.

Latvian language the official language of the state as explained in the Third Chapter.

The Draft Law was criticized by the international organizations. Moreover, the government was asked to soften the amendments in 1997. The Latvian parliament ratified the Language Law, which tolerated the usage of the language in the private sphere in 1999. However, the discussions did not end after the ratification. The survival of the Latvian language remained one of the pressing issues in the country. While some domestic actors argued that there was need for incentive to make ethnic Russians learn the language, the international organizations stated that the Latvian language courses for Russian speakers would be sufficient to ensure the survival of the language.

After all these discussions in the country, the Language Law was vetoed by the Latvian president and parliament was asked to review the law by taking into consideration the recommendations of the EU and OSCE. The Language Law was passed by the parliament in 1999. The Latvian government adopted The Integration of Society in Latvia: Framework Document, according to which “willingness to accept Latvian as the states language” was set as one of the main goals for the country’s future. The final version of the Document was approved in 2001 on the same basis.<sup>297</sup> The Document also proposed creating a unified education system in the country. However, this was regarded as an assimilation strategy by the ethnic Russians. One of the most important factors which created tension between ethnic Latvians and Russians was the different perceptions of the history. Different understandings made the integration difficult in the Latvian society.

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<sup>297</sup> Latvian government, “The Integration of Society in Latvia: A Framework Document. Riga. 1999; and Latvian government, The Integration of Society in Latvia”, Riga, 2001. See <<http://www.am.gov.lv/en/ministry/4265/4266/4269/#Integration>> (Accessed on 21 October 2006).

Three years after the implementation of the Language Law, one high-rank official of the OSCE, Gerard Stoudmann, proposed that Russian language would be the second official language of the state. This proposal increased the tension in Latvia. However, OSCE declared that this proposal did not reflect the official policy of the organization.<sup>298</sup>

In the same year, the Latvian parliamentarians were discussing the issue of political participation and representation of the ethnic minorities in the country. Likewise Estonia, minorities were underrepresented in Latvian state institutions. Artis Pabriks states that “minorities are employed by 65 per cent less than their ratio among citizenry”<sup>299</sup> in Latvian ministries. Minorities were also underrepresented in municipal councils and judiciary. The underrepresentation in these state institutions created distrust among minorities concerning the functions of these institutions.

The major reasons for the underrepresentation especially in elected bodies, such as city councils were due to the requirements of language proficiency and citizenship. The international organizations, OSCE in particular, this time proposed eliminating the language requirement for those who would run in the elections. This suggestion increased the tension in the country, which lasted until May 2002. As a result of international pressure, Latvian authorities abolished the requirement of the utmost degree of language proficiency for parliamentary and municipal elections. However, the Latvian

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<sup>298</sup> J. Johansson, “OSCE Provokes Language Scandal”, *Baltic Times*, 28 March 2002.

<sup>299</sup> Artis Pabriks, *Occupational Representation and Ethnic Discrimination in Latvia*, Riga, 2002, p.25.

language were remained the only working languages of the abovementioned elected bodies.<sup>300</sup>

Aside from aforementioned obstacles, Latvian Constitution clearly stated that citizenship was the fundamental prerequisite for political participation. For instance, while Estonian Constitution stated that all permanent residents could vote in the local elections, Latvian Constitution declared that only Latvian citizens who enjoy full citizenship rights could vote in elections for the local government councils.<sup>301</sup>

In the framework of EU accession, Latvia will have to amend this provision in order to allow the participation of EU citizens in accordance with Article 19 EU and Council Directive 94/80/EC of 19 December 1994, [which] laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals, OJ, 1994, L368/38.<sup>302</sup>

Comprehensive Monitoring Report on Latvia's Preparations for Membership stated that the issue mentioned above was one of the remaining problems in Latvia.<sup>303</sup> However, the last Accession Partnership was entirely silent on this issue.<sup>304</sup>

In 2002, the Latvian Parliament approved a new legislation according to which parliamentarians would be asked to "swear an oath in Latvian in which

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<sup>300</sup> Article 52, Estonian Constitution; and Article 21 and 101, Latvian Constitution.

<sup>301</sup> Article 156, *Estonian Constitution*; and Article 101, *Latvian Constitution*.

<sup>302</sup> Marc Weller, "ECMI Working Paper," *European Centre for Minority Issues*, No.20, 2004, p.26.

<sup>303</sup> Comprehensive Monitoring Report on Latvia's Preparations for Membership, p.19.

<sup>304</sup> Council Decision of 28 January 2002 on the principles, priorities, intermediate objectives and conditions in the Accession Partnership with Latvia, OJ, 2002, L44/45.



they promise to uphold the Latvian language”.<sup>305</sup> In the context of 2002 Latvian elections, the International Election Observation Mission stated that the participation of non-citizens in local elections could be seen as a concrete step in dealing with the democratic deficit.<sup>306</sup> One of the most pressing examples of democratic deficit was that one third of the population in Riga could not participate in the elections for city councils. Despite the international pressure, the political parties were not in favour of the expansion of voting rights, since the majority believed that inclusion of these persons in the electoral process might lead to deep political change.<sup>307</sup>

As verified by numerous research institutions, Latvia focused on the promotion of naturalization, but it could not promote the minority representation in the public institutions. Although promoting loyalty and weakening alienation from the state institutions were two important legs of the Latvian National Integration Programme, this situation could not prevent alienation in the society.<sup>308</sup>

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<sup>305</sup> “Constitution Watch: Latvia”, *East European Constitutional Review* 11, No.3, 2002, <<http://www.law.nyu.edu/eecr/vol11num3/constitutionwatch/latvia.html>> (Accessed on 16 March 2007).

<sup>306</sup> See <[http://www.osce.org/odihr/elections/field\\_activities/latvia2002](http://www.osce.org/odihr/elections/field_activities/latvia2002)> (Accessed on 19 April 2007).

<sup>307</sup> Valts Kalnins, “Latvia: Regional and Municipal System”, <[http://www.balticdata.info/latvia/politics/latvia\\_politics\\_administration\\_basic\\_information.htm](http://www.balticdata.info/latvia/politics/latvia_politics_administration_basic_information.htm)> (Accessed on 21 August 2006).

<sup>308</sup> National Integration Programme, p.7.

## **Lithuania's Integration into the EU and the Ethnic Russians**

Lithuania's performance concerning the laws and policies related to citizenship and minority rights was evaluated in a very positive way by the international organizations. In 1997, the following statement was affirmed by the Parliamentary Assembly of the CoE:

The right to use national minority languages is legally secured, in accordance with the principles of the European Charter for Regional or Minority Languages; other minority issues and relations with religious communities are approached in a spirit of mutual accommodation. The Assembly welcomes the progress which has thus been made by both law and policy into line with the principles of the Council of Europe, and to establish good relations with neighbouring countries.<sup>309</sup>

Although Lithuania was not declared as ready to start accession negotiations with the EU in 1997, the performance of the country with regard to status of the ethnic minorities evaluated as positive in the Agenda 2000 of the EU Commission Report.<sup>310</sup> The determining cause here was that the 1991 Citizenship Law, which granted citizenship to all residents in Lithuania and provided minorities with the right to follow their own cultural and educational system.

However, in 1996 schools whose instruction language was Lithuanian complained that they could not get enough support from the local governments. Upon this complaint, Lithuanian government amended Education Law and

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<sup>309</sup> "Recommendation 1339 on the Obligations and Commitments of Lithuania as a Member State (Council of Europe)", <[www.coe.int](http://www.coe.int)>, in Dovile Budryte, Taming Nationalism? Political Community Building in the Post-Soviet Baltic States., The USA: Ashjate Publishing Company, 2005, p.163.

<sup>310</sup> "Recommendation 1339 on the Obligations and Commitments of Lithuania as a Member State (Council of Europe)", <[www.coe.int](http://www.coe.int)>, in Dovile Budryte, Taming Nationalism? Political Community Building in the Post-Soviet Baltic States., The USA: Ashjate Publishing Company, 2005, p.163.

transferred educational responsibilities from local governments to the central government.<sup>311</sup>

Tensions in the country rose in the same year, since the right-wing politicians who formed the government argued that Lithuanian language and culture was in danger in some parts of the country. At this point, the idea of increasing the number of Lithuanian language schools came to the fore. However, the idea was protested by the ethnic minorities in Lithuania. Besides, various surveys showed that most of the ethnic minorities in the country was fluent in Lithuanian language.<sup>312</sup> Thus, there was no need to worrying about the language was “dying out”. In 2003, the Education Law was again amended. According to these new amendments “in localities where a national minority traditionally constitutes a substantial part of the population, upon that community’s request, the municipality assures the possibility of learning in the language of the national minority.”<sup>313</sup>

It was only noted in the EU Commission reports that there were not any regulations regarding the political representation rights of the minorities in the country, as their place in the Parliament was very limited.<sup>314</sup> However, the

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<sup>311</sup> Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashjate Publishing Company, 2005, p.164.

<sup>312</sup> According to the survey conducted in September and October 1997, 60 per cent of ethnic Poles, 49.3 per cent ethnic Russians and 34.1 ethnic Byelorussians reported that they could speak and write Lithuanian. “Recommendation 1339 on the Obligations and Commitments of Lithuania as a Member State (Council of Europe)”, <[www.coe.int](http://www.coe.int)>, in Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, The USA: Ashjate Publishing Company, 2005, p.166.

<sup>313</sup> Republic of Lithuania, Law on the Amendment of the Law on Education, 17 June 2003, <http://www.lrs.lt> (Accessed on 14 September 2007).

<sup>314</sup> In 2003, the Lithuanian Russian Union reported that it had 1,129 members. Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States.*, Ashjate Publishing Company, The USA, 2005, p.167.

results of numerous surveys showed that ethnic minorities in the country were less interested in politics compared to indigenous population.

Ethnic Russians in Lithuania were seen as loyal to the Lithuanian state and well-integrated into society. Yet, it was argues

...it was difficult to talk about the integration of ...ethnic Russians into Lithuania's (political) life. Probably one reason for this phenomenon is the Soviet legacy – the education system – allowing ethnic minorities to act as if they were living not in Lithuania, but next to Lithuanian state.<sup>315</sup>

However, taken as a whole the EU Commission reports stated that the ethnic minorities in Lithuania had well-established rights.<sup>316</sup>

#### 4.4 Conclusion

The preceding case studies of political community building in Estonia, Latvia and Lithuania between 1997 and 2003 in particular suggest the following conclusions:

The Estonian case clearly shows that the main factor that affected the process of community building in Estonia was the memories of the Second World War and the Soviet occupation in particular. This is the reason behind the adoption of the principle of *state continuity* following the independence. However, after 1993 international actors involved in the process of community building in the country.

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<sup>315</sup> “Laiko zenklai, ‘Lietuvos Rytas’”, 29 June 2004, in Dovile Budryte, *Taming Nationalism? Political Community Building in the Post-Soviet Baltic States*, Ashjate Publishing Company, The USA, 2005, p.169

<sup>316</sup> EU Commission, “Regular Report from the Commission on Lithuania’s Progress towards Accession”, Brussels, 1997, <<http://www.europe.eu.int/comm/enlargement>> (Accessed on 21 February 2007).

With the intention of being a member to the EU in return for security under potential Russian threat, Estonian authorities amended the citizenship law and adopted more liberal laws and policies. In spite of the close monitoring process and pressure coming from the international actors, the number of issues which were debated in the country increased. Amendments which were ratified in compliance with the international norms were regarded as “giving in” to Russian pressure by some segments of the nation, the right-wingers in particular. However, membership to the EU promoted the Estonian state in strengthening its nationalizing practices by teaching the state authorities how to improve the administrative capability of the state in general.

Likewise Estonia, the Soviet occupation played an important role in Latvia’s community building process. Historical memories were used as the main arguments by those who were opposed to adopt multi-cultural norms in citizenship and language laws. Unlike Estonia, Latvian state brought the historical background of the country to the attention of the international community, as they feared from Russia and Russian influence due to existence of huge number of ethnic Russians in the country. After approximately ten years of close monitoring, Latvia tried to reduce the fear of historical memories of its indigenous population and meet the expectations of its ethnic minorities by the so-called temporary solutions.

The same as Estonia and Latvia, the historical memories played a major role in the process of community building in Lithuania. The Lithuanian case, different than Estonian and Latvian cases, complied with the international norms, the EU in this case. However, Lithuanian case also shows that the compliance with the EU does not necessarily mean that these norms would assure extensive political inclusiveness and ethnic tolerance. Albeit inclusive citizenship laws of Lithuania after independence, it was observed that these laws did not promote the political engagement of ethnic Russians in the country.

## **CHAPTER V**

### **CONCLUSION**

This thesis has attempted to analyze the impact of the EU accession processes of the Baltic States, Estonia, Latvia, and Lithuania, on their citizenship policies and laws concerning their ethnic Russian minorities from a comparative perspective. In this regard, firstly, the thesis aimed at outlining the origin of the Baltic nations and Baltic states. In addition, the nature of the political situation in the three Baltic states before and during the Communist period was discussed. Secondly, the thesis examined the minority problems of ethnic Russians in the three Baltic states in the post-Soviet era. Thirdly, the thesis focused on the European Union accession process of these states and the EU's position on their progress in the field of minority rights. Finally, the chapter evaluated the effectiveness of the European Union conditionality over the accommodation of ethnic Russians in the Baltic states of Estonia, Latvia and Lithuania.

As examined in the First Chapter, the Baltic states' geographical and geopolitical position which offer access to the Baltic Sea, has been attractive for the other nations around the region throughout centuries. Aspirations of others who wanted to gain economic and political superiority over the region, therefore, made the Baltic nations victims on their own territory beginning from the early Middle Ages. As of the first half of 1700s, these nations became under the rule of Russian Empire and started to receive significant amount of Russian minorities. The Russian rule over the Baltic region lasted until the early 1900s. Between 1918 and 1940, the Baltic states went through a period of sustained independent statehood, before their national sovereignties came to an end with

the Molotov-Ribbentrop Pact of 1939, which was signed between the Soviet Union and Germany.

The Baltic states, in general, and Latvia in particular, did not realize that the Pact made the Baltic states subject to the long term annexation of the Soviet Union. Through annexation years, the Baltic states were subject to heavy industrialization policies of the Soviet Union, human rights violations and considerable number of Russian influx from the other parts of the Union until 1980s. Through 1980s, not only the Baltic states but also whole Soviet history was deeply affected by Mikhail Gorbachev's policies of *glasnost* (openness) and *perestroika* (restructuring).<sup>317</sup> *Glasnost* damaged the official theory of the Soviet Union. The discussions opened deep-seated complaints among national minorities. These complaints led to the secession of the many nations from the Union, including Estonia, Latvia and Lithuania. At this point, the issues of restoration of the pre-1940 Baltic republics and political community building process came to the fore.

Although the three Baltic states present similarities on the abovementioned issues, it would be wrong not to take into consideration the significant differences, which have led the various applications in citizenship and minority policies, in other words political community building process of these states. The review of relevant literature suggests that the Baltic states, Estonia and Latvia in particular, present cases in which they committed to the interests of one ethnic group, which then were transformed into more liberal political community building in respect to the protection of minority rights following the disintegration of the Soviet Union. When studying this hypothesis, the influence of international actors, who promoted the rights of the minority communities, is taken into account.

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<sup>317</sup> Zvi Gitelman, "Glasnost, Perestroika and Antisemitism," *Foreign Affairs*, Spring, 1991, <<http://www.foreignaffairs.org/19910301faessay6055/zvi-gitelman/glasnost-perestroika-and-antisemitism.html>> (Accessed on 27 October 2006).

It could be observed that most nation states tend to use coercion to some extent in order to construct a common national identity, such as by asking immigrants to pass language tests and knowledge of history. In the Baltic context, this coercion is not justified in the eyes of ethnic Russians, especially in Estonian and Latvian cases. There is no doubt that through the process of political community building, the historical experiences of each Baltic state played a major role.

For instance, in Estonia indigenous population and the ethnic Russians do not have the same perceptions concerning the historical memories of the Second World War, the Soviet occupation and the relations with Russia, likewise Latvia. While the Baltic nations had a tendency to compare Holocaust, the “Jewish genocide”, with the deportations and repressions of the Stalinist era during the 20<sup>th</sup> centuries, most Russians did not see the events of the annexation period from the same point of view. These different attitudes towards the Second World War and the Soviet occupation caused a division between the indigenous population of the Baltic nations and the ethnic Russians. Moreover, this difference caused an obstacle for the Baltic states to follow a healthy community building process following their independence.

When the citizenship laws and policies of Estonia and Latvia are examined in detail in the Third Chapter, it is observed that both countries chose to grant citizenship only to pre-1940 inhabitants and their descendants in line with the principle of *state continuity*. In so doing, the authorities in two Baltic states took into consideration the historical memories of the Soviet period. In other words, the experiences under the Soviet regime, particularly the deportations and the forced migrations, became the central element within policy-making process of the newly independent Baltic states.

The Baltic states’ justification of their citizenship laws with reference to historical events, such as the deportations and the Soviet occupation resulted in



a tendency which excluded the Soviet era immigrants from the political communities. As can be observed, the historical legitimization of citizenship laws was seen crucial by those who led the national revival movements. On the other hand, Lithuania adapted relatively inclusive citizenship laws and cultural rights to its ethnic minorities after the dissolution of the Union. However, this did lead the way to active engagement of the ethnic Russians neither in social nor in political area as several data show.<sup>318</sup>

While these events occurred in the three Baltic countries, international actors became interested in promoting minority and human rights. Through the post-Cold war era, various international actors, particularly Western institutions, started monitoring and screening activities in the post-Communist republics of the East Central Europe in order to promote the respect for human rights, the protection of the minority rights and democracy; thereby, securing stability over European territories as explained in the Fourth Chapter of the thesis.

The actions of the international organizations helped East Central European countries, in this case the Baltic states, to settle the democracy and legitimize the states in the eyes of ethnic minorities. It is also observed that the main incentive in promoting laws and policies related to human and minority rights in East Central European countries, including the Baltic states, was the promise of the EU membership as pointed out in the Third and Fourth Chapters; because the EU is regarded by the Baltic states as the only power which could guarantee security for themselves against the perceived Russian “threat”. Therefore, especially Estonia and Latvia made amendments in their minority laws and policies when they convinced that these changes would directly affect the chance of being member to this organization.

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<sup>318</sup> Judith Kelley, “Does Domestic Politics Limit the Influence of External Actors on Ethnic Politics?”, *Human Rights Review*, Vol.4, No.3, 2003.

The greatest problem here was Russia's use of minority rights issue in its foreign policy towards Estonia and Latvia so as to be influential in both countries. From Moscow's point of view, the EU is "conditioning their [Latvia and Estonia's] further integration on improving their relations with Russia and ... the rights of their Russian speaking populations".<sup>319</sup>

The analysis in this thesis demonstrates that the EU intervention in Latvia and Estonia created a feeling of victimization among both ethnic Balts and ethnic Russians. The resistance of authorities towards the international organizations in both countries during the initial stage of community building caused criticisms about the russophobia especially in Estonia and Latvia. These criticisms delayed the tolerance in the political culture.

As indicated in the Fourth Chapter and also claimed by Topidi there is "lack of clear standards regarding minority rights during the process of the EU expansion to post-Communist Europe: It still remains unclear how these standards [regarding minority rights] could or should be applied to member states, as the EU legislation on the matter is limited and any the EU standards which applied to the existing fifteen member states were implemented."<sup>320</sup>

The Copenhagen criteria of 1993, which is also defined as the accession criteria, set the basic requirements for candidate states to fulfill "before they could become eligible for EU membership. These criteria included the rule of

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<sup>319</sup> Igor Yurgens, Member of the Russian Council for Foreign and Defense Policy, quoted by ITAR/TASS, 24 September 1999.

<sup>320</sup> Kyriaki Topidi, *The Limits of EU Conditionality: Minority Rights in Slovakia*, European Centre for Minority Studies, Flensburg, 2003, p.7, <[http://www.ecmi.de/jemie/download/Focus1-2003\\_Topidi.pdf](http://www.ecmi.de/jemie/download/Focus1-2003_Topidi.pdf)> (27 October 2007).

law and stable democratic institutions as well as human rights and respect for minorities.”<sup>321</sup> However, the Copenhagen criteria are criticized that they are

quite general, giving candidate countries little guidance as to what exactly must be done to achieve compliance. Although the EU has prided itself on the merits of membership conditionality, the academic literature is rather ambivalent on the power of this strategy. The point at issue concerns the vagueness of the criteria.<sup>322</sup>

The EU, therefore, had little to offer “in terms of substantive guidance, as the lack of benchmarks, inconsistencies and the limited scope for follow-up on implementation in the Regular Reports demonstrates.”<sup>323</sup> Gwendolyn Sasse also argues that “minority issue lacked a firm foundation in EU law and concise benchmarks. The minority rights have never been an internal EU political priority.”<sup>324</sup> Thus, especially Estonia’s and Latvia’s progress in relation to the EU has not depended on their performance in the field of minority rights.

Despite the EU’s limited offer, it would not be fair to underestimate the constructive influences of the international actors on laws and policies related to minority rights in the Baltic states, though. For example, international

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<sup>321</sup> Peter Vermeersch, “Minority Policy in Central Europe: Exploring the Impact of the EU’s Enlargement Strategy”, *The Global Review of Ethnopolitics*, Vol.3, No.2, January 2004, pp. 3-19, <[http://www.ethnopolitics.org/ethnopolitics/archive/volume\\_III/issue\\_2/vermeersch.pdf](http://www.ethnopolitics.org/ethnopolitics/archive/volume_III/issue_2/vermeersch.pdf)> (Accessed on 23 September 2007).

<sup>322</sup> Peter Vermeersch, “Minority Policy in Central Europe: Exploring the Impact of the EU’s Enlargement Strategy”, *The Global Review of Ethnopolitics*, Vol.3, No. 2, January 2004, pp. 3-19, <[http://www.ethnopolitics.org/ethnopolitics/archive/volume\\_III/issue\\_2/vermeersch.pdf](http://www.ethnopolitics.org/ethnopolitics/archive/volume_III/issue_2/vermeersch.pdf)> (Accessed on 23 September 2007).

<sup>323</sup> Gwendolyn Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUI Working Paper RSCAS No. 2005/16, 2005.

<sup>324</sup> Gwendolyn Sasse, *EU Conditionality and Minority Rights: Translating the Copenhagen Criterion into Policy*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUI Working Paper RSCAS No. 2005/16, 2005.

influences started making revisions on historical memories and diminishing victimization feeling in these countries, thereby liberalizing their policies and laws relatively. In other words, re-evaluation of the past brought political democratization to the Baltic states partially. Yet, it did not totally solve the minority issue.

In conclusion, although the EU accession conditionality together with the efforts of other international organizations, such as CoE, NATO, and the OSCE brought numerous amendments to education, language and citizenship laws in the three Baltic states as examined in the previous chapters, it does not mean that all the problems have been solved as a result of the European accession process. There are still remaining issues in the ethnic relations of the Baltic states. The numbers of non-citizens, low naturalization rates, effects of language and citizenship policies in socio-economic field are still remaining in Estonian, Latvian and Lithuanian contexts. As a conclusion, the main argument of this thesis is that notwithstanding the fact that the European accession process has promoted minority rights in the three Baltic states significantly, the ethnic Russians in the Baltic states have been partially accommodated during the Baltic states' accession into the EU. The ethnic Russians have not been entirely accommodated due to Baltic states' fear from potential influence of the Russian Federation over the ethnic Russians in these Baltic states.

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