



## 'Exit' in deeply divided societies : regimes of discrimination in Estonia and Latvia and the potential for Russophone migration

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**‘Exit’ in Deeply Divided Societies: Regimes of Discrimination  
in Estonia and Latvia and the Potential for Russophone Migration**

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**Abstract**

*Hirschman’s model of ‘exit’ envisages that mass migration can communicate feedback to a state and elicit modifying policy behaviour. The regimes of discrimination against Russophones in Estonia and Latvia are examined to demonstrate that in certain conditions of inter-ethnic conflict the model does not work as predicted. In deeply divided societies the mass migration of a minority can be intentionally promoted by a majority regime of discrimination and thus does not perform a feedback function. Equally, in such conditions migration may operate as a safety valve to release the build up of minority antagonisms against the discriminatory regimes. The cases of Estonia and Latvia also illustrate the limitations of international conditionality from the EU and OSCE to prevent anti-minority policies, when there is a lack of international commitment and when governing elites resist. Given the lack of political will in Estonia and Latvia to modify the regimes of discrimination, and the poor prospects for integration or assimilation, the article predicts a significant out-migration by Russophones to other EU member states when restrictions on freedom of movement are eased after the transitional period.*

Studies of the relations between the titular nationalities and the Russophones in Estonia and Latvia are generally analysed under the model of ‘ethnic democracy’ (Smith, 1996; Smith et al 1998; Järve, 2000; Smooha, 2001). In both states nationalizing projects were formulated around regimes of discrimination intended to subordinate the large Russophone minorities to titular hegemony.<sup>1</sup> Equally, the ‘rationality’ of the nationalizing regimes is often stressed. The institutionalization of exclusivist citizenship and language policies, it is argued, has allowed the reproduction of titular ethnic hegemony through a near-monopoly of career opportunities in government, public administration, the professions, and the economy (Steen, 1996). Some studies have focussed on the ‘internal’ aspects of the issue and how it may be managed by policies of assimilation or integration (Laitin, 1998; Kolstø, 1999 and 2002).<sup>2</sup> Some have emphasised the role of international pressure on both states to moderate their nationalizing regimes by securing citizenship and other rights and protections *internally* for the Russophones (Gelazis, 2004). Others are critical of the effectiveness of the EU and the Organisation for Security and Cooperation in Europe (OSCE) in this area (Hughes and Sasse, 2003; Sasse, 2005).

Comparative experience suggests that the only practical alternatives to integration and assimilation under such regimes are violence, or ‘exit’ in the sense of out-migration.<sup>3</sup>

The ‘exit’ option of out-migration has been given a new impetus by the accession of Estonia and Latvia to membership of the EU and by recent policy changes in the EU in the field of rights for citizens, residents and third country nationals (TCNs). The Russophones of Estonia and Latvia are one of the largest minority groups in the EU, and many hundreds of thousands of its members are stateless (Table 1 and Table 2a and 2b). In the period immediately preceding enlargement just over 523,00 (22.4%) of the 2.34 million population of Latvia were stateless (European Commission, Regular Report on Latvia, 2002: 30). In Estonia, the figure was 172,000 (12.5%) of a population of 1.37 million (European Commission, Regular Report on Estonia, 2002: 30). Such high levels of statelessness are extraordinary within the EU. This article analyses the regimes of discrimination in Estonia and Latvia in two key respects. Firstly, it examines the attempts by international organizations, specifically the EU and OSCE, to apply conditionality to moderate the nationalizing projects and to protect the minority Russophone community. Secondly, it assesses the potential for ‘exit’ by out-migration of Russophones as a means of escaping the regimes of discrimination and the condition of statelessness.

### **Reconceptualizing ‘Exit’ in Ethnically Divided States**

Comparative experience of regimes of discrimination against minorities suggests that they cannot easily be sustained in democratic states in the absence of systematic coercion or forms of ‘control’ (Lustick, 1979). Minorities will ultimately seek to change their conditions under a regime of discrimination through three main routes, roughly approximating to the model developed in Hirschman’s *‘Exit, Voice and Loyalty’* (Hirschman, 1970). Let us take the potential responses in reverse order. Firstly, a persecuted minority may seek to escape discrimination through processes of compliant assimilation (loyalty). Secondly, assuming the political regime is tolerant, the minority may seek change by peaceful political and economic mobilization. When this option is suppressed, a persecuted minority may resort to violence. Both recourses are forms of ‘voice’.<sup>4</sup> Thirdly, a minority may seek to improve its conditions by exercising the ‘exit’ option. This may take two forms: alienation and withdrawal from politics, and out-migration from the country where they suffer from a regime of discrimination. Our concern here is with the potential for the latter form of voluntary ‘exit’ in Estonia and Latvia.

Hirschman’s model was devised to explain behaviour within a competitive environment, primarily of firms. He understood ‘exit’ to be a corrective ‘mechanism of recuperation from performance lapses’, where the ‘exit’ of consumers incurred costs to the firm/organization and communicated these in a form which allowed remedial action to be taken (Hirschman, 1970: 24-5). Hirschman extended the model to explain the impact of ‘exit’ (in the form of out-migration) on the political stability of a state, using the collapse of the German Democratic Republic in 1988-9 as a case where private ‘exit’ and public ‘voice’ ‘worked hand in glove’ (Hirschman, 1993: 202). In the cases of Estonia and Latvia, ‘exit’ tends to be explored from the perspective of the titular elites. In the mid-1990s, Hirschman’s model was employed to explore ‘exit’ potential in the sense of out-migration of the Russophones to Russia

(not a very attractive prospect given its then state of political disorder and economic collapse) (Laitin, 1998: 158-98). This reflected the prominent discourse among the titular nationalist political classes for 'repatriation'.

When applying the concept of 'exit' to majority-minority relations in deeply divided societies, where politics is significantly shaped by an ethno-political or other deep social cleavage, some modification is necessary. In such cases 'exit' loses its remedial feedback or corrective function for state behaviour. The 'exit' of the minority by out-migration may be the preference for the organization, in this case the state, as much as for the consumer, in this case the ethnic minority. It is perverse to think of 'exit' as performing a remedial function on state behaviour in such cases since it will almost certainly be of a permanent nature. In other words, in political contexts where majority-minority relations are a significant political issue, 'exit' means finality and closure on the issue not feedback. An ethnic minority that out-migrates because of opposition to a discriminatory ethnic hegemony, from a state where they have weak historical roots, and where they are not wanted by the majority, are not likely to return if they can find better prospects elsewhere, even if discrimination stops.

The classic hypotheses on migration are based on utility theory and offer various 'push-pull' models. The more complex models stress a combination of factors related to the socio-economic conditions of individuals and their expectations (Krieger, 2004: 88ff). A strong economy, where benefits are distributed across all sections of society, even if unequally, can be expected to make a regime of discrimination more bearable than an economy in decline, where the discriminated minority is likely to suffer disproportionately. The scale of any out-migration also depends on the proximity and openness of other countries. In the case of Estonia and Latvia, Laitin's 'tipping model' of migration rests on a simple utility calculus determined by three factors: expected economic returns, in-group status, and out-group status. His conclusion is that Russophones are likely to opt for 'cumulative assimilation' within both states, whereby the Russophones will be transformed into 'Balts' (sic!) (Laitin, 1998: 28-30). This model assumes that the political regimes for the management of inter-ethnic relations in Estonia and Latvia are designed to promote integration or assimilation, and thus reflect a commitment by the majority and minority to cooperate on this strategy. How valid is this assumption?

### **Regimes of Discrimination**

While in Latvia about 42% of Russophones have been officially recognised as 'original' (aka 'indigenous'), many Russophones migrated to Estonia and Latvia in the decade after 1945 (Table 3 and Table 4) (Tsilevich and Poleshchuk, 2004). These migrants have been resident as long as the *Gastarbeiter* Turks in Germany, and somewhat longer than the Black and Asian populations of the UK, or the North Africans in France. In contrast to the *Gastarbeiter*, the Russophone migration was not envisaged as a temporary phenomenon but rather was planned to give permanence to the Sovietization of Estonia and Latvia. Many Russophones were motivated to migrate by the higher than average socio-economic conditions in Estonia and Latvia, and the cultural incentives derived from their perceived 'Europeanness'. Significant numbers of Russophones also originated as retirees from the Soviet military garrisons. By the late 1980s when the USSR was disintegrating, the Russophone minority

constituted a much larger percentage of the population in Estonia and Latvia than any comparable migrant group in any European country (Table 4).<sup>5</sup>

The regimes of discrimination have been hinged on three policy pillars. The first pillar is the denial of citizenship. The second pillar is cultural subordination through the control of the use of the Russian language in the public and private domains, in particular in public administration, the mass media, and education. The third pillar is the restriction of Russophone participation in political and economic life by limiting many key spheres and professions to citizens. The regimes of discrimination are administered by state agencies, for example the Estonian Citizenship and Migration Board and the Latvian Naturalization Board. The policy and legal foundations of the three pillars have been comprehensively analysed in other work (Antane and Tsilevich, 1999; Kemp, 2001; Sarv, 2002; Dorodnova, 2002). My focus here is to explain why the regimes of discrimination persisted in an international climate that, in theory, promoted minority protection.

The post-independence policies of ethnic discrimination in both states appeared to be designed to promote the ‘voluntary’ repatriation of minorities – a goal of the nationalist elites that came to power after 1991. This sentiment was constrained only by high growth rates, economic dependence on Russophone labour, and international criticism. Many tens of thousands of Russophones were denied citizenship outright, and the bulk of the minorities in both states were compelled to overcome complex legal, bureaucratic, and linguistic hurdles to obtain citizenship. Citizenship is critical for the enjoyment of many of the fundamental rights and freedoms in any democracy, but even more so in newly democratizing states. Non-citizens cannot form political parties, run for political office or vote in national elections, vote in local elections (Latvia), and rights to free movement, employment and ownership are limited. There right to use their own language in private and public, in education, business and the mass media is controlled by law. There is much anecdotal evidence of discriminatory employment practices, though official data on this is not collated. The regime of discrimination is most developed by law in the case of Latvia where there are more than 33 separate categories of employment barred for non-citizens, and numerous restrictions on their rights (see Annex 1). Some categories of Russophones were forced to out-migrate. For example military personnel and their families, former KGB employees, and those classified as politically undesirable, were compelled to leave Estonia and Latvia in the first half of the 1990s. Poor data meant that previous studies underestimated the scale of out-migration at around 150,000 in the period 1991-6 (about 60,000 from Estonia, and over 90,000 from Latvia), with a peak in 1992-4 (Smith, 1998: 106-7, figure 5.1). Recent official data for Latvia only for the period 1991-5 indicates that the figure was significantly higher at over 168,000 (Central Statistical Bureau, Latvia, 2005). The vast majority of Russophones have remained *in situ*, but citizenship laws have been employed to fragment them into three main sub-groups: i. citizens, ii. permanent residents, and iii. temporary residents. The latter two categories, *de facto*, are an imposed condition of statelessness if persons have not been granted the citizenship of a third country, such as Russia. One of the resulting ironies of the regime of discrimination was that in the elections to the European Parliament in June 2004 hundreds of thousands of Russophone residents were disenfranchised, while foreigners who were EU citizens were allowed to vote.<sup>6</sup>

While the plight of the Russophones has been given an increasing priority in Russian foreign policy under Putin, in contrast, the EU, the US and the overwhelming majority of OSCE states stress democratic content over discriminatory practice in the cases of Estonia and Latvia. The regimes of discrimination in Estonia and Latvia were modified in some respects by international pressure in the second half of the 1990s (discussed later) emanating from OSCE High Commissioner on National Minorities, Max Van der Stoep, and EU accession conditionality. In particular, both states were pressured to provide for speedier and easier processes of naturalization for non-citizens. While the modifications had a significant impact on policy in Estonia, the situation in Latvia was barely affected.

Two main explanatory theses, which I term the *continuity* thesis and the *conditionality* thesis, are generally employed in studies of the nationalizing policies in the Baltic states. The first focuses on the restorative character of the post-Soviet states of Estonia and Latvia. The resistance of Estonia and Latvia to the granting of citizenship and other policies to promote the integration and assimilation of the Russophone minority is thereby explained by their lack of obligation under international law. The second approach stresses the credibility of EU accession conditionality in forcing Estonia and Latvia to soften their policies to a level of discrimination that was acceptable to the EU, OSCE and its HCNM. The closure of the OSCE Missions in both states in December 2001, their entry into NATO in April 2004, and accession to the EU in May 2004 were signals from the West to Estonia and Latvia that their respective policies on citizenship and other rights for Russophones had passed an international litmus test. There are significant flaws in both the *continuity* and *conditionality* theses as to some extent these approaches *per se* have diverted attention from the harsh realities of the discriminatory regimes and have distorted the evaluation of the prospects for mass migration.

### **State Continuity and Normative Discontinuity**

The impulses of governing elites in nationalizing states have been well characterised by the nineteenth century Italian nationalist Massimo D’Azeglio’s observation that ‘we have made Italy, and now we have to make Italians’. In the case of Estonia and Latvia after the fall of the USSR in late 1991, D’Azeglio’s motif had to be subverted in the sense that both states had inherited a common civic ‘Soviet’ citizenship. The demographic shifts and trends in the twentieth century, and the post-Soviet citizenship policies and legal changes of both states have been extensively analysed elsewhere, and thus I will simply summarise the key developments and data here (for further analysis see Nørgaard, 1996; Kolstø, 1999 and 2002). As noted earlier, migration trends in the Soviet Union post-1945 had radically altered the ethnic balances in the populations of both states. For the titular nationalist elites it was imperative to redress this inherited citizenship structure both to avoid power-sharing with the Russophone minority and in order to pursue an undiluted nationalizing state project. In Lithuania, where the titular nationality was an overwhelming majority, a so-called ‘zero-option’ of a civic and inclusive citizenship for all Soviet citizens resident in the state was implemented. In contrast, in Estonia and Latvia where the ethnic balance was much closer, and consequently the perception of threat for nationalists was much greater, citizenship was reconstructed along ethno-national lines. To reconfigure the citizenship required that the Soviet Estonian and Soviet Latvian civic citizenships be

'unmade'. The debate within the Estonian and Latvian nationalist movements in 1989-91 coalesced around a consensus that the expulsion of the 'occupant' and 'alien' population was politically impossible and thus citizenship became the key instrument for the process of remaking the state in an exclusivist and quasi-segregationist ethnic mould. Estonia and Latvia justified their projects for an ethnic definition of the new states by employing the principle of 'state continuity' (Gelazis, 2004). While some neighbouring Western states, such as Finland and Sweden, had recognised Soviet annexation of the Baltic republics, and many (including Britain and France) had operated a de facto recognition, the US consistently opposed recognition under its Stimpson doctrine. It was not until the Soviet collapse in late August 1991 that the USA and EC jointly moved quickly to include the Baltic states in international organisations such as the OSCE, Council of Europe and UN on the grounds that their sovereignty had been interrupted by Soviet annexation and was now being restored.

The state continuity principle gave the Estonian and Latvian titular nationalist elites the opportunity to establish an ethnic hegemony under the cover of restoring the constitutional and legal frameworks of the pre-Soviet era. Estonia promulgated a new constitution in 1992, which re-established the pre-Soviet republic and restored its 1938 law on citizenship (as amended in 1940), thus restricting citizenship to those citizens, and their descendants, of the pre-1940 period. In Latvia, however, the 1922 constitution and 1919 citizenship law (as amended in 1927), were reinstated on a piece-by-piece approach. The first articles of the constitution (1-3 and 6) were re-established by the Independence Declaration adopted on May 4, 1990, while the Constitution (*Satversme*) in full was formally reinstated only by the 6th Saeima elected in June 1993. Meanwhile, in October 1991 the Supreme Council adopted the Resolution on the Renewal of the Body of Citizens of the Republic of Latvia and the Main Principles of Naturalization, which established a legal basis for the registration of citizens on the basis of a 'restored citizenship', which effectively limited citizenship to those who had been citizens of pre-1940 Latvia and their descendants. The so-called 'Citizenship law', which permitted naturalization, was adopted only in July 1994 and entered into force in February 1995. Thus, a person born in say Toronto to a Latvian or Estonian parent who had the right to citizenship under the pre-1940 criteria could claim citizenship, whereas a person born in Tallinn or Riga who did not meet the pre-1940 criteria, could not claim citizenship. The continuity principle thus provided a legal device for an administrative ethnic cleansing of the citizen body, purging it of Russophones (mainly Russians), and consolidating titular ethnic political and economic hegemony.

These policies must be understood as a reaction to a half century of Soviet occupation, and embittered memories of bloody persecutions and deportations in the decade after World War Two. To understand is not to excuse, however, and it is morally objectionable to blame the whole Russophone minority for Soviet policies, or to resist their integration as equal citizens because of a strategy of ethnic privileging. By far the worst Soviet repression in the Baltic states occurred in Lithuania, which did not post-1991 install a regime of discrimination. The continuity claim, however, is employed by the titular elites in Estonia and Latvia in a way which decontextualises the principle of restoration from the historical conditions in which their state sovereignty was established. The protection of the rights of minorities, admittedly then much smaller in number, was an intrinsic feature of the creation of the states of Estonia and Latvia in 1919-20, as it was in many of the other states of Central and

Eastern Europe that emerged after the Versailles settlement of 1919. Both states, as part of the treaties with Russia, and as a condition of membership of the League of Nations, were required to create an inclusive citizenship from the outset, to entrench minority protections in their constitutions, to guarantee minority political representation through electoral laws, and to promote minority cultural self government, especially in education and the use of language in public administration (Von Rauch, 1974, 135-45; Hope, 1996, 48-52).<sup>7</sup>

In applying the principle of state legal continuity to the post-1991 era, we should also consider the normative dimensions of this principle, and the extent to which a normative continuity with regard to citizenship and minority protection should have been required. Naturally, the nationalizing elites of Estonia and Latvia have downplayed the normative aspects of state continuity, and though cultural rights for citizens belonging to minority groups have been retained from the 1919-20 era, there is no political will and bureaucratic obstacles have been set against their implementation. For example, Estonia's law of October 1993 on 'Cultural Autonomy for National Minorities' was limited to Estonian citizens, thus excluding the vast majority of the Russophone community. Estonia and Latvia have promoted state continuity through constitutional and legal frameworks which have been eviscerated of their normative content with regard to inclusive citizenship and the protection of minorities. The acceptance of 'restoration' by the Western democracies has allowed Estonia and Latvia to treat their minorities within a framework of 'decolonization', thus recasting the minority as 'foreigners' who can be legitimately denied many fundamental rights.

### **International Conditionality: Realism and Realities**

It is ironic that the nationalizing projects of Estonia and Latvia occurred in a context of a resurgence of an international agenda for minority protection in Europe in the late 1980s and early 1990s. Post-communist conflicts accelerated the securitization of the issue of minority protection, which in turn bolstered the role of the OSCE and its newly established HCNM in managing the issue. The 'norm' of minority protection was rhetorically prominent in how external and internal actors evaluated state-building and democracy in the CEE states after the fall of communism, and it became one of the core norms of the EU in its road map for EU enlargement to the east. The basic conditions for new members established by the declaration of the June 1993 Copenhagen Council (the 'Copenhagen criteria') borrowed from the existing OSCE norms on the need for democratic states to guarantee human rights and protect the rights of minorities. The Copenhagen criteria of 1993 also dropped the conventional 'persons' formulation of international agreements in preference for a 'group' rights approach for minority protection in confirmation of EU support for the policy paradigm developed by the Paris Charter (1990) and the Badinter Commission (1991-2) for dealing with the post-communist states (Sasse, 2005). The problem for implementing such norms was/is that there is no agreed legal, or indeed conceptual, definition of what constitutes a national 'minority'. The ambiguities were replicated in the key OSCE General Recommendations issued throughout the 1990s and the Council of Europe's (COE) Framework Convention for the Protection of National Minorities (1995) (FCNM).<sup>8</sup> Prior experience had demonstrated that the power of the



OSCE and COE to ensure compliance was relatively weak. For example, no state has ever been suspended for infringements of the norms.

### *EU Conditionality*

The effectiveness of EU accession conditionality is a contested issue. For some, the ‘Copenhagen criteria’ have been a credible and successful mechanism for the promotion of democracy, human rights and the protection of minorities (Smith, 2001; Grabbe, 2001).<sup>9</sup> In the case of minority protection in Estonia and Latvia, it is argued that EU conditionality, relying on the recommendations of the OSCE HCNM, had a tremendous amount of leverage (Gelazis, 2004). Other studies have questioned the effectiveness of EU conditionality, arguing that it was often overridden by political realism, and was not closely temporally correlated with the policies and laws on minority issues in Estonia and Latvia. Furthermore, the EU’s key instrument for measuring compliance with its accession conditionality - the annual ‘progress’ country report – demonstrated that the political concepts and standards prescribed by the Copenhagen criteria were not easily benchmarked or readily translatable into recommendations for ‘implementation’. A law can exist formally but may not be implemented in part or in whole because of deliberate non-compliance, or because of ‘capacity’ weakness in candidate states (Hughes and Sasse, 2003; Hughes, Sasse & Gordon, 2004; Sasse, 2005). During the enlargement process the condition of two minority groups in Central and Eastern Europe were identified as a concern by the EU - the Russophone minority in Estonia and Latvia, and the Roma.

Sasse has detailed the clear inconsistency over time in the EU reports for both states as regards policies towards the Russophones (Sasse, 2005). The reports recorded a checklist of formal measures of compliance (such as legislation on citizenship, naturalization procedures, language rights, and electoral laws; the establishment of ombudsmen; and government ‘strategies’ on integration). They did not assess the effectiveness of implementation. Trends were evaluated by numerical benchmarks, such as the number of a minority granted citizenship, number of requests for naturalization, the pass rate for language or citizenship tests, the number of school or classes taught in the state and minority languages, the number of teachers trained to teach in the state and minority languages, the extent of media and broadcasting in minority languages, and so on. The Reports employed ambiguous references to ‘international standards’ or ‘European standards’, in particular in connection with the adoption of laws or their implementation. EU officials often cited the FCNM as a benchmark, but this was not a condition for accession (EU Monitoring Accession Program, 2002: 18). Indeed, Latvia, only ratified the FCNM in April 2005, one year *after* its accession to the EU. When the reports do identify problems in the field of minority protection policy these are attributed to under-funding, weak administrative capacity, understaffing and the low levels of public awareness in the CEE states, rather than ideological opposition to the very concept itself, which was clearly the case in Estonia and Latvia.

Robust measures of how committed a government is to the integration of minorities are the rate of naturalization, and the use of public funds to promote the policy broadly. The EU toned and deflected criticisms in these critical areas. In the case of Estonia, the EU’s report for 2002 blamed low rates of naturalization (about 2% or

3,000-4,000 persons per annum) on ‘relatively limited motivation’ of non-citizens, without explaining why this might be the case (European Commission, Report on Estonia, 2002: 30). In the case of Latvia, the EU’s report for 2002 merely reported the slow decrease in the proportion of non-citizens from 24.6% to 22.4%. If one takes funding as a strong benchmark of commitment levels, then we should note that the Latvian government allocated just €760,714 for the National Programme for Latvian Language Training in 2002. Given that Latvian language proficiency is a pre-requisite for citizenship, the low funding for it is a demonstration of low commitment by the state (European Commission, Report on Latvia, 2002: 30-34). Similarly, in March 1999 the Estonian government adopted a policy document ‘Integration of non-Estonians into Estonian Society: Government Action Plan’ which mandated the recently established ‘Integration Foundation’ with the task of elaborating a state integration programme for the period 2000-2007. In 1999 the state budget allocated just €370,000 to activities connected with integration and language training. The 2002 Reports on Estonia and Latvia contain the most absurd contradictions. The closure of the OSCE missions in late 2001 (discussed below) is reported as proof of the full compliance of both states with EU norms. At the same time, Latvia was criticized for its failure to ratify the FCNM, for its restrictive naturalization, and for limiting the political participation of minorities through language laws (European Commission, Report on Latvia, 2002: 30-35).

The EU Regular ‘Progress’ Reports reflected a kind of cat-and-mouse battle between the Estonian and Latvian governments, on the one hand, who were determined to minimise concessions on their nationalizing projects, and the Commission, on the other hand, which wanted the modifications set out by the OSCE Missions and HCNM. Non-compliance and the dragging of feet approach by Estonia and Latvia, however, were not permitted to block the entry of the two states to the EU. Much of the pressure on the EU and OSCE in this respect, as we shall discuss below, came from the USA, whose main concern was the expansion of NATO to the Baltic states. The result was an equivocal pursuit by the EU of moderation in Estonia and Latvia, which soured its grand declaratory goals of minority protection set out in the early 1990s.

### *OSCE Conditionality*

The logic underlying the establishment of the HCNM was anticipatory. Future conflicts could be avoided, according to the logic, by learning lessons from past conflicts, and by deploying resources proactively in a timely manner to defuse problems. The effectiveness of international conditionality is best measured by the compliance of the subject. Those who advocate that conditionality was effective in the cases of Estonia and Latvia point to the modifications made to laws on citizenship and education, and to other policy compromises secured primarily by pressure from the HCNM and the ‘quiet diplomacy’ of High Commissioner (1992-2001), Dutch diplomat Max van der Stoep. Much of the literature on the subject of the HCNM’s effectiveness is informed by the writings of those who worked in the HCNM itself. They provided excellent narratives of how HCNM recommendations informed changes to laws on citizenship, education, the creation of Ombudsmen, and national programmes of integration in both Estonia and Latvia. These works have popularised the view in the academic and policy communities that the HCNM was exceptionally

successful even while the OSCE Missions were still operating in both countries (Zaagman, 1999; Kemp, 2001, van der Stoel, 2001a). Indeed, van der Stoel has chastized his critics as ‘extremists’ (van der Stoel, 2001b).

Among other duties related to conflict prevention, van der Stoel saw himself as an ‘advocate of minorities’ (van der Stoel, 2001a: 123). The fundamental problem that he faced in Estonia and Latvia was the contradictory international position whereby the legal continuity of the Baltic states was recognised (thus making de-citizenship possible), while the treatment of the Russophones was seen as a cause for concern and conflict potential. It is difficult to reconcile the claims of successful international intervention with an outcome which has left some 700,000 persons stateless and without fundamental political and economic rights. In Estonia, where laws and procedures for naturalization are by far much easier than in Latvia, at current rates the process will take two generations (sixty years) to be complete. Other studies are more circumspect about the effectiveness of the OSCE and HCNM. A recent study of Latvia suggests that the severe imbalance in the ethnic structure of power established by ‘ethnic democracy’ predated the HCNM’s involvement, and was impossible to roll back. Consequently, the HCNM role was limited to seeking modifications to discriminatory laws and policies, rather than addressing the fundamentally discriminatory character of the regime *per se* (Dorodnova, 2003: 135). A study of Estonia characterised the HCNM role as ‘firefighting’. Rather than seeking to challenge and to alter the structure of discrimination institutionalised in the state, the HCNM concentrated on the short-term goals of modifying those laws and policies which were most likely to provoke immediate conflict, such as the law on aliens of 1993 (Sarv, 2002: 105-7).

The activities of the HCNM was a largely non-transparent ‘confidential’ diplomatic process of ‘behind-the-scenes’ prodding and cajoling of Estonian and Latvian governments during numerous visits, and exchanges of letters. For reasons of international politics discussed below, the work of the HCNM was more circumspect in Latvia and Estonia, than in any other case, and thus laid his work open to charges of ‘double standards’ from the Russian Federation. The public pronouncements of van der Stoel stressed other cases of minority persecution, such as the ‘plight of the Roma’ and their experience of ‘discrimination and exclusion’, and the ethnic problems of the Balkans, but he never specifically publicly focussed on Latvia and Estonia.<sup>10</sup> In contrast, a much more public effort to moderate the nationalizing policies came from the in-country activities of the ‘long-term’ Missions established in both states by the OSCE in October 1993 with a mandate to ‘promote stability, dialogue and understanding between the communities’, and which operated separately from the HCNM. Only some of the relevant documents have subsequently been published by the OSCE.<sup>11</sup> It was also understandable that the Russian Federation should complain about double standards from the OSCE and EU when these institutions devoted so much time and effort to securing institutional arrangements for decentralization and autonomy for minority groups in the Former Yugoslavia (in Bosnia, Kosovo, and Macedonia) in the latter 1990s.

How successful were the HCNM and the country Missions, supported by leverage from the EU accession process, in securing modifications to the regimes of discrimination in Latvia and Estonia? In Estonia, for example, following the HCNM recommendations, measures were introduced to amend the law on aliens of 1993 and

to simplify naturalization procedures in 1997 and 1998, and 2001, especially for stateless children who were now granted Estonian citizenship, if born in Estonia after 26 February 1992 and upon their parents' request (by 2003 some 3,000 children achieved citizenship by this means) (Senipalu, 2003: 16). The tests for citizenship (both language and civic knowledge) were simplified, and a large-scale process of converting temporary resident permits into permanent resident permits was launched. Citizens and residents were excluded from immigration quotas (a barrier to family reunification, in particular for Russophones). A government 'Action Plan' for integration was introduced in March 1999, though the small budget suggested that it was not a policy priority. An important concession introduced in June 1999 in Estonia was an amendment to the Law on Local Council Elections, which allowed non-citizens legally resident in Estonia to vote in the local elections for the first time. This was a significant political concession given the territorial concentration of large numbers of Russophone non-citizens in Tallinn and Narva. No such concessions on electoral rights for non-citizens were forthcoming from Latvia, despite equivalent pressure. The concessions in Estonia were also accompanied by a further tightening of restrictions on non-citizens in other areas. For example, in August 1999, Estonia introduced a minimum income requirement for persons applying for Estonian residence permits, persons who wished to exchange a temporary residence permit for a permanent residence permit, and for family reunification. This was a new and significant obstacle for illegal residents to regularize their situation.

Having previously focussed on the issue of citizenship, in the late 1990s the nationalizing projects in both states turned to cultural issues, and in particular language use and education. In May 1999 amendments to the Parliamentary and Local Elections Law required candidates for parliamentary and local elections to have a 'sufficient' level of Estonian, thus excluding the vast majority of Russophones. Modifications were made under sustained OSCE and EU pressure to the Estonian language law of 1995 (as amended in 1999 and 2000), which created a 'justified public interest' to make Estonian compulsory and privileged its use in many public sectors and even private activities. In Estonia, it is legally possible only for municipalities where Russophones account for more than 50% of the local population to make a request to use Russian as a language of public administrative in parallel to Estonian. This compares very unfavourably with the standard 20% population threshold for minority language use in public administration inherited from the Austro-Hungarian empire, affirmed by the League of Nations in Central and Eastern Europe in the 1920s and, which is a norm used today in Slovakia for the Hungarian minority. In addition, the Law on Basic and Upper Secondary Schools, as amended in April 2000, will impose after 2007 a national curriculum on all state secondary schools which will consist of a minimum 60:40 ratio in favour of the Estonian language, irrespective of the language capabilities of teachers and students.

In Latvia, the resistance levels of the titular nationalists of the Latvian political class proved to be too strong for the HCNM. The continuity principle allowed a citizenship law of 1995 to entrench a de facto ethnic definition of citizenship. The law allowed a small annual quota for 'naturalization' by the granting of citizenship to Russophones, but it was designed to exclude the near-totality for many decades. Despite a major effort, the HCNM secured only minor modifications of the naturalization procedures. Liberalizing amendments to the 'Citizenship law', such as the abolition of the 'naturalization windows' or staggered 'timetable' (i.e the quasi-quota system), and the

extension of citizenship to new-born infants of non-citizens on request of the parents, were adopted by the Parliament in June 1998, and approved by a narrow margin in a referendum in October 1998. The Latvian political class resisted further concessions despite immense pressure from the OSCE Mission and the EU in the run up to the Mission closure in December 2001. The take up of citizenship by Russophones, however, has been very slow. Between 1995 and January 2005, just 85,352 persons were granted Latvian citizenship. In 2002, only 9,844 persons were naturalized, in 2003 the number was 10,049, and in 2004 16,064 persons (Ministry of Foreign Affairs of Latvia, 2005). There may well be instrumental factors involved in this trend, such as avoidance of Latvian military conscription, preference for less complicated visa arrangements to Russia (though this ended in 2004), and the fee cost (currently about 35 US dollars), but the main reason in my view is the alienation of the Russophones from the Latvian state after a decade of discrimination. At the current rate it will take over a generation for the bulk of the Russophone community to acquire citizenship.

Similarly the Law on the State Language in Latvia, adopted in December 1999, introduced a 'public interest' (Section 2 Art. 2) to regulate the use of language in the private and public spheres. The provisions have a deeply intrusive and corroding effect on the cultural, economic and political rights of Russophones. For example, the language law requires that even private meetings being held by non-Latvian speakers must provide for the use of the state language (Latvian) if there is a 'legitimate public interest'. In the absence of large-scale language training in Latvian, these policies effectively contribute to the marginalization of minorities by curbing their work opportunities and limiting access to decision-making processes (Poleshchuk, 2002).

A detailed study of the OSCE mission in Estonia published in 1999 concluded that inter-ethnic relations were such that the country was 'crisis-prone' and that the mission was a 'long-term matter' (Birckenbach, 2000: 58-9). It was astounding then that the OSCE Permanent Council decided to close the Estonian and Latvian Missions in December 2001. The titular nationalist elites in both states saw the 'long term' Missions as degrading to their democratic respectability on the international scene. For much of the 1990s their approach was to proactively resist OSCE pressure (Latvia) or begrudgingly compromise with it (Estonia). How, then, can we account for the closure of the missions? International politics played the determining role. The US Congress and presidential administrations were subject to sustained pressure from ethnic Baltic lobby groups after 1991. Neo-conservative Republicans in particular, supported titular nationalism in Latvia and Estonia as a bulwark against the Russian 'threat' and pushed for their speedy entry to NATO. Security, political and economic concerns were also prominent in the Nordic states, especially Sweden, that aligned themselves with the US to couple and fast track the entry of the Baltic states into the EU and NATO.

Guidelines for the mission closures had been set by the Austrian Chairmanship of the OSCE in 2000. When the Swedish presidency of the EU finally set a date for enlargement (1 May 2004) at the Göteborg summit in June 2001, there was a scramble by the EU to terminate OSCE activity in Estonia and Latvia by the end of the year. While further concessions on the part of Estonia and Latvia to meet the Guidelines were considered desirable, they were no longer considered pre-requisites for closure. In the case of Estonia, a compromise on the language requirement for

elected offices delivered in late 2001, allowed that mission to declare that the guidelines had been met. In Latvia, in contrast, no such concessions were made. It was politically essential, however, for the EU and NATO that both missions be closed simultaneously. Consequently, the decisions by the OSCE Permanent Council meetings of December 2001 to close both missions, but especially the Latvian, was characterized by one observer as akin to ‘banging a square peg into a round hole’.<sup>12</sup> Not only, did Russia oppose it, but so did Canada. The decision, and the mode of its delivery, consolidated Russia’s profound lack of faith in the work of the OSCE and its ‘double standards’ (OSCE Magazine, 2004).

While the EU and OSCE were in a dash to close the missions, the COE Advisory Committee for monitoring minority rights approved an opinion that criticized Estonia for its failure to address many fundamental issues relating to minority protection (Council of Europe, 2001). The discrimination against the Russophones of Estonia and Latvia has been a low priority for the current OSCE HCNM Rolf Ekeus, a factor which has allowed EU and US policymakers to downplay the problem.<sup>13</sup> In contrast, the COE’s Commissioner for Human Rights, Alvaro Gil-Robles, has assumed much the same proactive and critical role that was performed by the van der Stoep leadership of the HCNM in the 1990s. The EU institutions (Council, Commission, Parliament), in contrast, are in a conscious denial about the subject because to revisit it in any form would be tantamount to admitting that they had got it wrong when assessing Estonia and, in particular, Latvia’s conformity with the accession conditionality.

### **The Trends and Incentives for Migration**

One would reasonably assume that the rapid growth of the economies of Estonia and Latvia (5.8% and 8.5% respectively in 2004), and the prospect of continued growth as new EU member states, with falling unemployment and rising living standards, would be an incentive for the Russophones to remain *in situ*. The assumption that economic growth in Estonia and Latvia will constrain migration must also assume that the discriminatory regime does not extend into employment and business, whether public or private sector, and that Russophones are not disadvantaged in sharing the benefits of economic growth.

The lack of reliable data on the distribution of economic power by ethnicity makes definitive conclusions difficult. What data there is on such issues (and the Estonian and Latvian governments discourage the collection of such data), indicates that, in fact, the discriminatory regime has penetrated extensively into the public and private sectors in both states. Studies of Estonia’s transition have demonstrated that the Russophones were subject to systematic discrimination in the marketization of the economy which privileged ethnic Estonian citizens (Andersen, 1999). Rates of unemployment, poverty levels and social exclusion are significantly higher among the Russophones (UNDP Human Development Report on Estonia 1997). A World Bank study revealed earnings’ discrimination against Russophones in the Latvian labour market, and biases in their treatment if unemployed and non-citizens (Chase, 2000). There is a structural explanation for the fact that the Russophones are more likely to be unemployed and socially marginalized during the transition. Their employment was concentrated in the big Soviet enterprises, and the hub of their social capital and

networks was the enterprise based labour collective. As these enterprises were largely eliminated by the economic restructuring after 1991, it is not surprising that the Russophones have fared badly from the adjustment to the market. The data suggests, however, that the regimes of discrimination are also structural impediments for Russophones to maximise their socio-economic opportunities and realise expectations.

In the case of Latvia, which is widely acknowledged to have the most punitive discriminatory regime, the first trend to note is that actual out-migration from Latvia has fallen steadily during from the late 1990s through to the present (see Table 5). Emigration peaked in the period 1991-1995 and was correlated with the most intense period of nationalising policies and a drive to expel politically undesirable 'occupants' who had served in the Soviet military and security services. In 2003-04, the emigration flow amounted to just 2744 persons in total. Of this amount, the Russian Federation took the greatest share, comprising 38.5% (Central Statistical Bureau of Latvia, 2005). From this trend we can deduce that the vast majority of those Russophones who wanted to migrate to the Russian Federation and other parts of the former Soviet Union, did so in the 1990s, and that migration in this direction is now residual. We should not infer from this, however, that the Russophones are satisfied with their conditions in Estonia and Latvia and are in the process of 'cumulative assimilation'. While the Russian economy has also posted significant growth since 2000 of some 7% per annum, its attraction for migrants is weak because most of its growth is accounted for by the energy industries and Russia has a persistent poverty problem among about one-third of its population.

When the EU's Schengen border regime is established after the transitional period in Estonia and Latvia, their border with Russia will be hardened even further. Travel and migration will be re-channelled towards the other EU states. If an important factor impelling migration is the architecture (legal, political, social, and economic) that constrains a person's ability to participate in the polity, to compete in the labour market and to develop their culture, then the implications of the present condition of Russophones in Estonia and Latvia seem obvious. The key push factor for migration is the extensive legal and social discriminatory regimes and the drive for assimilation in both states, and the absence of will for integration on the part of both the main ethnic communities. The pull factor is the looming access to Russophones of EU-wide freedom of movement. The expansion of EU citizenship, and the more inclusive approach by the EU to the rights of TCNs, will be incentives for the migration of many Russophones to other member states. A major flaw in previous studies of the potential for migration from new member states to old has been that surveys have focussed on citizens only, thus significantly underestimating the potential among the Russophones of Latvia and Estonia (Krieger, 2004).

Will non-citizens be allowed to migrate? The transitional provisions in the accession treaties for Estonia and Latvia have imposed qualifications on their status as new members. In the area of mobility, the treaties established a period of 5 to 7 years during which citizens will have a substantially qualified right to free movement compared with the citizens of existing Member States. All things being equal, once the transitional period ends, free movement will be allowed. Furthermore, Estonia and Latvia are covered by the Council Directive 2003/109/EC of 25 November 2003 on the status of TCNs and their rights, including free movement. There is a potential

ambiguity in the Directive in the sense that it equates 'residents' with 'nationals', and seems to assume that all residents have citizenship of a third country. The issue is whether the directive would therefore apply to stateless persons such as the Russophones of Estonia and Latvia who do not have citizenship. In fact, during the negotiations over the Directive the Commission took the view that TCNs are 'any person who is not a citizen of the EU'.<sup>14</sup> Thus, the stateless persons in Estonia and Latvia fall within the scope of the Directive. Indeed, when Estonia and Latvia raised the issue with the Commission their only concern was that TCNs might enjoy *more* rights to mobility within the EU compared with their own citizens who were subject to the transitional restrictions, not that they would have freedom of movement. The Commission's position on this issue was that the Community preference principle meant that the TCNs of Estonia and Latvia would not be more favourably treated in this respect than their own citizens. Consequently, the whole Russophone minority will enjoy the right to free movement within the EU once the transitional provisions end in 2009.

## **Conclusion**

Hirschman's model of 'exit' has been reinterpreted here to demonstrate how out-migration in certain conditions of inter-ethnic conflict works differently than his model predicts. In such conditions, mass migration would not act as a feedback mechanism but as a safety valve to release the build up of social antagonisms against discriminatory regimes, and to permanently expunge the 'problem' of a minority presence. The policies of successive governments in Estonia and Latvia have demonstrated that the titular nationalist political class in both states regards the presence of the Russophones as an obstacle to their nationalizing projects, their preference is for the Russophones to migrate. Sophisticated and extensive regimes of discrimination have been established in both states based on restrictions under three policy pillars - citizenship, language, and participation. The analysis of the process of EU and OSCE international conditionality reveals a lack of political will surrounding the whole process. Under international pressure to modify the discrimination, the governing elites in Estonia and Latvia resisted major reform or compromises on their nationalizing projects, while still achieving their major foreign policy goals of EU and NATO entry. Comparative experience suggests that in the absence of significant modification or the large-scale migration of Russophones, the regimes of discrimination will generate high levels of alienation and potential for inter-ethnic conflict within Estonia and Latvia.



**Table 1 Population of Estonia by Ethnicity and Citizenship, 2000**

Nationality	Citizens of Estonia	Citizens of Russia	Citizens of Other Countries	Undetermined Citizenship	Unknown
<b>Total</b>	1095743	86 067	8941	170 349	8952
Estonians	922 204	692	165	4896	2262
Russians	141 907	73 379	1048	133 346	1498
other	29 774	11 581	7560	31 554	267
unknown	1858	415	168	553	4925
<b>Per cent</b>					
Estonians	84.2	0.8	1.8	2.9	25.3
Russians	12.9	85.3	11.7	78.3	16.7
other	2.7	13.4	84.6	18.5	3.0
unknown	0.2	0.5	1.9	0.3	55.0

Source: Ministry of Foreign Affairs of Estonia, 2002  
[http://www.vm.ee/estonia/kat\\_399/pea\\_172/2868.html](http://www.vm.ee/estonia/kat_399/pea_172/2868.html)

**Table 2a Population of Latvia by Ethnicity and Citizenship, 1995 and 1997**

Ethnicity	Citizens of Latvia		% of the Latvian Citizenry		Without Latvian Citizenship		% of All Non-Citizens		Total Residents		% of All Residents		% of Ethnicity with Citizenship	
	1995	1997	1995	1997	1995	1997	1995	1997	1995	1997	1995	1997	1995	1997
Latvians	1397523	1382346	78.7%	78.2%	24464	11265	3.3%	1.6%	1421987	1393611	56.5%	56.7%	98.3%	99.2%
Russians	289106	288999	16.3%	16.3%	476790	452981	64.4%	65.9%	765896	741980	30.4%	30.2%	37.7%	38.9%
Belarussians	20971	20993	1.2%	1.2%	88151	83220	11.9%	12.1%	109122	104213	4.3%	4.2%	19.2%	20.1%
Ukrainians	4151	4739	0.2%	0.3%	65183	63434	8.8%	9.2%	69334	68173	2.8%	2.8%	6.0%	7.0%
Poles	39522	38975	2.2%	2.2%	25465	23207	3.4%	3.4%	64987	62182	2.6%	2.5%	60.8%	62.7%
Others	25013	32726	1.4%	1.8%	60178	53379	8.2%	7.8%	85191	86105	3.4%	3.6%	21.3%	28.4%
<b>Total</b>	<b>1776286</b>	<b>1768778</b>			<b>740231</b>	<b>687486</b>			<b>2516517</b>	<b>2456264</b>			<b>70.6%</b>	<b>72.0%</b>

Source: UNDP, *Latvia Human Development Report*, 1997: 49.

**Table 2b Residents of Latvia by Nationality on July 1, 2005**

	Citizens of Latvia	Non-citizens	Aliens	In total	
Latvians	1 349 539	2 120	1 033	1 352 692	58.9%
Lithuanians	17 655	12 263	1 571	31 489	1.4%
Estonians	1 522	658	349	2 529	0.1%
Belorussians	28 551	56 829	2 024	87 404	3.8%
Russians	346 746	288 207	21 084	656 037	28.6%
Ukrainians	13 812	40 952	3 813	58 577	2.6%
Poles	40 642	14 885	556	56 083	2.4%
Jews	6 418	2 796	360	9 574	0.4%
Others	21 919	14 159	5 599	41 677	1.8%
<b>In total</b>	<b>1 826 804</b>	<b>432 869</b>	<b>36 389</b>	<b>2 296 062</b>	<b>100,00%</b>

Source: Board for Citizenship and Migration Affairs, Latvia  
[http://www.np.gov.lv/index.php?en=fakti\\_en&saite=residents.htm](http://www.np.gov.lv/index.php?en=fakti_en&saite=residents.htm)

**Table 3 Immigration to the Baltic States from other Soviet Republics, 1946-1989 (thousands)**

	<b>Estonia</b>	<b>Latvia</b>
Total no. of immigrants	1,158,600	1,517,800
Net Emigration	365, 900	445,200

Source: Nørgaard, 1996: 170

**Table 4 Ethnic Compositions of the Populations of Estonia and Latvia (per cent)**

<b>Ethnicity</b>	<b>Latvia</b>		
	<b>1934</b>	<b>1989</b>	<b>1994</b>
Latvian	77.0	52.0	54.2
Eastern Slav	12.1	42.0	39.5
Poles	2.3	2.5	2.3
Others	0.6	3.5	4.0
Total inhabitants (million)	1.91	2.67	2.67

<b>Ethnicity</b>	<b>Estonia</b>		
	<b>1934</b>	<b>1989</b>	<b>1994</b>
Estonian	88.2	61.5	66.0
Eastern Slav	8.2	35.2	32.8
Poles	0.2	0.2	0.2
Others	3.6	3.3	2.0
Total inhabitants (million)	1.14	1.57	1.53

Source: Nørgaard, 1996: 172-3.

**Table 5 Long-Term Migration in Latvia by Period (total persons)**

Period	Immigration	Emigration	Net migration
	TOTAL	TOTAL	TOTAL
1951 - 1960	639880	459832	180048
1961 - 1970	476934	335872	141062
1971 - 1980	548643	428235	120408
1981 - 1990	506576	423953	82623
1991 - 1995	30842	168230	-137388
1996 - 2000	12223	47064	-34841
2001 - 2003	4235	12074	-7839

Source: Central Statistical Bureau of Latvia, 2005

<http://data.csb.lv/EN/Database/annualstatistics/annualstatistics.asp>

## Annex 1

### Differences between rights of Latvian citizens and non-citizens/Latvian residents

<b>I. Prohibition to occupy certain state and public positions, to be employed in certain professions</b>	
<i>a) State Institutions</i>	
<b>Jobs reserved for Latvian citizens only:</b>	
1. State office (Senior Public Service)	Satversme (The Constitution of the Republic of Latvia), as amended of 15.10.98, Art. 101
2. Civil Servants	The State Civil Service Law, adopted on 07.09.00, Art.7
3. Constitutional Court Judges	Constitutional Court Law, adopted on 05.06.96, Art. 4(2)
4. Judges	The Law "On Judicial Power", adopted on 15.12.1992, Art.51(1)
5. Public Prosecutors	The Law "On the Public Prosecutor's Office", adopted on 19.05.94, Art.33 (1)
6. State Security Officers	The Law "On State Security Institutions", adopted on 05.05.94, Art.18
7. Diplomatic and Consular Service	The Law "On Diplomatic and Consular Service", adopted on 21.09.95, Art.3 (2)
8. Sworn surveyors	The State Land Service Order "On the procedure for issuing licenses to sworn surveyor practices", adopted on 21.07.93, p.7
9. Sworn evaluators	The Land service regulations "On special licenses to be obtained to value and fix the statute ore price of real estate according to categories of fixing the statutory price and valuation", adopted on 27.12.95, Art. 15
10. Police Service	Amendments to the Law "On Police" adopted by the Cabinet of Ministers of the LR on 11.01.94, Rules 19, Art.1.5
11 Prison Guard	The Prison Administration Law, adopted on 31.10.02, Art.10(1)
12. State Firefighting and Rescue Service	The Law on Fire Safety and Firefighting, adopted on 24.10.02, Art. 28.2
13. Border guard	The Law on Border Guard, adopted on 27.11.1997, Art. 7(1)
14. State Revenue service	The Law on State Revenue Service, adopted on 28.10.1993, Art.17 (as amended of 25.10.2001)
15. Officials of the Labour Inspection	State Labour Inspection Law, adopted on 13.12.2001. Art.5
16 Access to information declared a state secret	Law "On State Secrets", adopted on 17.10.96, Art. 9 (2)
<i>b) Private Sector</i>	
<b>Jobs reserved for Latvian citizens only:</b>	
17. Sworn Advocates and Advocate's Assistants	The Law "On Advocacy", adopted on 27.04.93, Art.14(1) and 83
18. Sworn Notaries and Notary's Assistants	Notary Law , adopted on 01.06.93, Art.9(1), 147(1)
19. Court bailiffs	The Court Bailiffs Law, adopted on 24.10.02, Art. 12(1)
20. Heads of the detective agency	The Law on Detective Activity, adopted on 05.07.01, Art. 4

21. Aircraft captain	The Law "On Aviation", adopted on 05.10.94, Art.35
22. The managers of a security guard	The Law "Security Guard Activities", adopted on 29.10.1998, Art. 6
23. Only Latvian citizen has the right to be employed in civil positions for army units	"Military Service Law", adopted on 30.05.2002, Art.16.
24. Non-citizen with pharmaceutical degree obtained outside EU can be licensed to practice only after one-year probation period	"Pharmacy Law", adopted on 10.04.97, Art. 38(3), as amended on 16.04.2003
<b>c) Public sector</b> <b>Only citizens have the right:</b>	
25. To be elected as jurors	The Law "On Judicial Power" adopted on 15.12.1992, Art.56
26. To serve in the National Guard	The Law "On National Guard", adopted on 06.04.93, Art. 5(1)
27. To establish political parties	The Law "On Public Organizations and Associations", adopted on 15.12.92, Art. 43
28. Political parties are allowed to operate if at least 1/2 of the members are citizens	The Law "On Public Organizations and Associations", adopted on 15.12.92, Art. 45 with amendments adopted on 05.04.95
29. To be elected to the National Radio and Television Council	The Radio and Television Law, adopted on 24.08.1995, Art.42
30. To participate in local elections	The City Dome and Rural District Councils Election Law, adopted on 13.01.94, Art. 5.
31. To be elected to Commissions and working groups of municipalities	The statute of Riga Municipality with amendment, adopted on 22.05.2001 establishes this restriction only for Auditing Commission (para 8). In some other municipalities (for example, in Jelgava) the restriction is expanded to all commissions.
32. To elect and to be elected to the management of the Council of students of the University of Latvia	Statute (Constitution) of the Students' Self – Government of the University of Latvia, 1998, Art.8 (in force till 2002)
33. Contacts with foreign citizens, access to cultural monuments and mass media are guaranteed to citizens only in some of the Agreements	5 Agreements, signed from 7.08.92 to 10.05.99 (see List, 1)
<b>II. Property Rights</b> <b>Only citizens have the right to:</b>	
34. Acquire the land into ownership with building on it if the land was not owned by them before 22.07.40	The Law "On the Land Reform in the Cities of LR", adopted on 20.11.91, Art. 12(1),(2)
35. A judicial person has the right to acquire the land plot into ownership in the LR cities if more than a half of its statute capital belongs to LR citizens. Should this ratio be changed, the deprivation of the land plot is envisaged, see	The Law "On the Land Reform in the Cities of LR", adopted on 20.11.91, Art. 20
36. Similar to No.35 limitation for judicial persons when buying land plots in rural areas	The Law "On the Land Privatization in Rural Regions", adopted on 09.07.92, Art. 28
37. Every citizen of Latvia is allotted 15 certificates more than a non-citizen. A non-citizen born outside Latvia gets another 5 certificates less. One certificate is the equivalent of the state property volume, created during 1 year of a person's life	The Law "On Privatization Certificates", adopted on 16.03.95, Art. 5 (2), (4)
38. Non-citizens who arrived in Latvia after the retirement age (60 for men, 55 for women) and who	The Law "On Privatization Certificates", adopted on 16.03.95, Art 5 (4)

had less than 5 years of hired employment receive no privatization certificates	
39. A Latvian citizen is allotted with certificates if he lived in Latvia before 31.12.1992 and at any time was registered as a permanent resident. Non-citizens of Latvia are allotted with certificates after their last arrival in Latvia only and having the purpose of permanent residence in Latvia.	The Law "On Privatization Certificates", adopted on 16.03.95, Art 5 (3)
40. Only citizens and legal entities are guaranteed the protection of their investments abroad	25 Agreements, adopted within the period 26.08.91-17.06.98 (see List, 2)
41. Protection of intellectual property abroad is guaranteed by some bilateral Agreements to citizens only	2 Agreements with 5 states, adopted within the period 21.11.95-07.12.95 (see List, 3)
<b>III. Private enterprise</b>	
42. Licenses for air transportation abroad are guaranteed, by bilateral agreements to the companies controlled by Latvian citizens. If such control is lost, the license is revoked.	17 Agreements, signed within the period 01.07.92-04.03.99 (see List, 4)
43. Only companies controlled by Latvian citizens can make fishing at the territory under USA jurisdiction	Fishery agreement with USA 08.04.93, art.1
44. Non-discrimination regarding double taxation is guaranteed to citizens only	6 Agreements, signed within the period 17.11.93-16.10.98 (see List, 5)
45. Establishment of joint-stock companies is not allowed to non-citizens who have resided less than 21 years in Latvia, Similar limitations exist for chairpersons of joint-stock companies, sworn auditors	The Law "On Joint-Stock Companies", adopted on May 18, 1993, Art.10.1 (1), 17.4
46. Commercial Handling of Weapons is allowed only for Latvian citizens and European Union citizens	The Law "On the handling of weapons", adopted on 06.06.2002, Art. 36
<b>IV. Social Rights</b>	
47. Years of employment outside Latvia are not included into the non-citizens' employment record when calculating pension rates	Law "On State Pensions", adopted on 02.11.95, transitional regulations, Art. 1
48. Only citizens have the right to receive different kinds of social aid on the territory of Finland. Years of employment on the territory of Finland are included into the citizens' employment record when calculating social insurance only.	Agreement with Finland on social benefits of 11.05.1999, Art. 4.1., 5.2., 16, etc.
<b>V. Other Rights and Freedoms</b>	
49. Only citizens have the right to study in certain higher education establishments	Statute (Constitution) of the Academy of Police, adopted by the Cabinet of Ministers on 17.06.1998, Art. 69 Statute (Constitution) of the National Academy of Defense, adopted by the Cabinet of Ministers on 30.06.1998, Art. 22
50. Latvian citizens may enter 53 foreign countries without visas. Non-citizens may enter, without visas, only 6 of them	The latest agreement with South Korea entered into force on 27.06.03, see: <a href="http://www.am.gov.lv/en/?id=574">http://www.am.gov.lv/en/?id=574</a>
51. The right on repatriation is enjoyed only by Latvian citizens as well as by persons whose ancestors are Latvians or Livs.	Repatriation Law, adopted on 21.10.95, Art. 2
52. Exemption from the customs duty during transit is provided, in some cases, to citizens only	2 Agreements, signed on 29.11.91 and 07.12.91 (see List, 6)
53. Only Latvian citizens and (in some cases) legal entities are guaranteed of legal assistance	9 Agreements, signed between 11.11.92 and 21.05.98 (see List, 7)
54. A citizen can be deprived of citizenship by court decision only. A non-citizen can be deprived of his status by decision of administrative authorities.	The Law "On the Status of the Former USSR Citizens Who Are Not Citizens of Latvia or Any Other State", adopted on 12.04.95, Art. 7

55. Non-citizens who have received compensation when leaving Latvia (i.e. as compensation for apartments left behind) from any state institutions or from abroad, apart from losing their former legal status, also lose the right to enter Latvia for residency	The Law "On the Status of the Former USSR Citizens Who Are Not Citizens of Latvia or Any Other State", adopted on 12.04.95, Art.1 (3) – according to the new Immigration Law, they may enter, if they pay back the compensation
56. The right to reunify with an adult child having no Latvian citizenship is reserved for Latvian citizens only	The Law «On Immigration», adopted on 31.10.2002. Art. 24(1), 31(1)
57. Non-citizens can be acknowledged as politically repressed persons (by the Nazi regime), if they were repressed because of their national identity or were minors and were confined in prisons and concentration camps in the territory of Latvia at that time.	The Law "On Determining the Status of Politically Repressed Persons who are Victims of Communist and Nazi Regimes", adopted on 12.04.95, Art.4, pp. 1-3
58. The right to self-defense: to acquire and receive a weapon as a personal award is allowed only to citizens	The Law "On the handling of weapons", adopted on 06.06.2002, Art. 19(6)
59. Only Latvian citizens are entitled to form collections of weapons	The Law "On the handling of weapons", adopted on 06.06.2002, Art. 34

Source: website of the Latvian Greens European Free Alliance Party (RSTVL)  
<http://www.pctvl.lv/?lang=en>

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## Notes

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<sup>1</sup> The term ‘nationalizing’ as coined by Brubaker means ‘a state *of* and *for* a particular ethnocultural “core nation” whose language, culture, demographic position, economic welfare, and political hegemony must be protected and promoted by the state’ (Brubaker, 1996, 105). The term Russophones is often erroneously used interchangeably with the term ‘ethnic Russians’. Here it denotes all those citizens and residents (permanent and temporary) in Estonia and Latvia whose primary language is Russian.

<sup>2</sup> The differences of meaning in the terms ‘integration’ and ‘assimilation’ are not deeply explored in these works, see **Laitin (1998: 30)** and Kolstø (1999:1-14). I employ the terms ‘integration’ and ‘assimilation’ here as end points on a spectrum defined by power relations, with ‘integration’ more characterised by greater parity in the process, and assimilation characterised by a more unilateral process.

<sup>3</sup> We can assume that extreme policies such as genocide and the mass expulsion of the Russophones can be ruled out from our analysis as impractical under current conditions.

<sup>4</sup> Hirschman defined ‘voice’ as ‘any attempt at all to change, rather than to escape from, an objectionable state of affairs’ (Hirschman, 1970: 30).

<sup>5</sup> Recent official country statistical office data indicates just over 800,000 Russophones in Latvia out of a population of around 2.3 million, and about 400,000 in Estonia out of a population of around 1.3 million. By comparison Germany’s largest ethnic minority, Turks, account for just over 1.7 million (just over 2%) of its 82 million population.

<sup>6</sup> The election laws in Latvia are available at [http://web.cvk.lv/pub/?doc\\_id=28180](http://web.cvk.lv/pub/?doc_id=28180)

<sup>7</sup> The main minority communities prior to 1939 were Russians, Poles, Germans, and Jews. By the end of World War Two the bulk of the Germans had been forced to out-migrate, and the bulk of the Jews had been exterminated (for data on population changes 1897-1996 see **Lauristin and Vihalemm eds, 1997: 305**).

<sup>8</sup> Specifically, the Hague Recommendations on the Education Rights of National Minorities (1996), the Oslo Recommendations on the Linguistic Rights of National Minorities (1998), and the Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999): <http://www.osce.org/hcnm/documents/recommendations/index.php3>

<sup>9</sup> The first Copenhagen criterion stated that: ‘Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, human rights, the rule of law and respect for and protection of minorities’.

<sup>10</sup> See for his example his own collection of speeches (Van der Stoel, 2001: especially at 171-8).

<sup>11</sup> Some of the documents are available on the OSCE and OSCE HCNM website at <http://www.osce.org/hcnm/documents.html>

<sup>12</sup> Unattributable information about the mission closures provided to author in May 2005.

<sup>13</sup> Ekeus replaced van der Stoel in July 2001.

<sup>14</sup> Unattributable briefing from a Commission official to author in April 2005.