

EU Enlargement and Latvian Citizenship Policy

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This article examines whether its the desire to join the European Union exerted any influence upon Latvian nationality policy. The author concludes that external pressure upon Latvian policymakers during the accession process led to a significantly more liberal and inclusive citizenship law than might have otherwise been adopted. The analysis includes an assessment of current concerns in nationality and minority policy in Latvia including the large number and status of non-citizens, the application of language legislation, and the reform of the education system. EU membership is expected to make Latvian citizenship more attractive for non-citizens and the country will continue to be required to meet its international obligations regarding treatment of the non-citizen population and minorities. However, there is a risk that the completion of accession negotiations and accompanying reduction in European Commission influence coupled with intense pressure on limited economic and administrative resources in the new member states will sideline respect for and protection of minority rights.

I. Introduction

Since regaining independence in 1991, Latvian nationality policy has developed from an exclusive, almost restitutionist, policy seeking to identify the Latvian state with the Latvian nation into a more inclusive civic definition of Latvian citizenship. The actions of various domestic, regional, and systemic level actors have affected the evolution of citizenship, language, and education policies and legislation in Latvia which has in turn affected the lives of the non-citizen minority. Given that the European Commission will have no power to influence minority policies post-accession, the ‘respect for and protection of minorities’ clause of the Copenhagen criteria risks being treated as a requirement for European Union (EU) accession rather than a necessary long-term condition of membership. At the same time, however, further EU integration has the potential to stimulate continued legislative adjustments and to enhance minority protection.

This article concentrates on the evolution of specifically citizenship legislation and what role the country’s desire to join the EU may have played in its development, examining first how the desire to join the Council of Europe influenced the initial citizenship legislation, followed by an assessment of how the Organization for Security and Cooperation in Europe (OSCE) sought to advise upon the *minutiae* of the Latvian policies and, finally, the influence of the EU enlargement process upon

Latvian nationality policy. An overview of current issues concerning the integration of non-citizens and minorities in Latvia is then given in the context of broader questions regarding the respect for and protection of minorities in an enlarged European Union.

II. The Evolution of Citizenship Legislation

The Latvian case is unique because Latvia hosts the largest percentage of ethnic Russians living within its borders of any of the Baltic countries and, with the exception of Kazakhstan, of any former republic of the USSR.¹ When it gained its independence in 1991, only 52 per cent of Latvia's population comprised ethnic Latvians, compared with a titular population of 62 per cent in Estonia and 80 per cent in Lithuania. The question of citizenship for the Russophone minority, which constitutes 37.2 per cent of the population of Latvia but only 17.8 per cent of the citizenry,² became the key issue in Latvia's struggle towards democratization, and the crucial issue in that country's accession to international organizations.³ European Commissioner Hans van den Broek, with responsibility for cooperation between the EU and the East European countries and with Russia, stated that the question of human rights or the rights of minorities is not contingent on anything, and any country which aspires to join European organizations or is already a member of certain of them has an obligation to observe strictly this paramount principle.⁴ EU Ambassador to Riga Gunther Weiss stated that it was impossible to consider Latvian accession to the European Union without considering Latvian–Russian relations and the status of Latvian non-citizens.⁵ Confirming this view was a statement by the OSCE High Commissioner on National Minorities (HCNM) Max van der Stoep that an important

¹ According to the Soviet Union Census, 1989, Kazakhstan had a population of Kazakhs 40 per cent and Russians 37 per cent.

² *Latvian Human Development Report 1997* (Riga, Latvia: UNDP, 1997), p. 49. The 1998 and 1999 reports did not give extensive coverage to nationality issues. In seven out of eight of Latvia's largest cities Latvians are in a minority: Riga 36.5 per cent, Daugavpils 13 per cent, Jelgava 49.7 per cent, Jurmala 44.2 per cent, Rezekne 37.3 per cent, Ventspils 43 per cent, Liepāja 38.8 per cent; *The Latvian Elections: Democracy and Human Rights*, A report by the British Helsinki Human Rights Group, 1993, p. 16. In Latvia, minorities, including non-citizens, account for nearly 44 per cent of the population, including 30 per cent Russians, 4 per cent Belarusians and 3 per cent Ukrainians. Of the Latvian Russophone residents, 314,731 are Latvian citizens and 599,635 (66 per cent) do not hold Latvian citizenship. Citizenship and Immigration Department data in *Latvia Human Development Report 1997* (Riga, Latvia, UNDP, 1997), p. 49. European Union figures estimate the Latvian population at 59 per cent and Russophones at 32.6 per cent.

³ *The Latvian Elections: Democracy and Human Rights* (A report by the British Helsinki Human Rights Group, 1993), p. 30.

⁴ "Ryzhkov Raised Latvia Events with European Colleagues", Moscow *Nezavisimaya Gazeta* in Russian, 12 March 1998, p. 6. *FBIS-SOV-98-075, Daily Report*, Central Eurasia, 16 March 1998.

condition for integration into European structures is the integration of other nationalities into Latvian society.⁶

From an extreme nationalist perspective, ethnic homogeneity is desired but not feasible in the real world of modern Latvia. Heterogeneity is inevitable but generally rejected by nationalists. In the case of Latvia, the desire for an ethnically Latvian dominated regime and actual government actions do not wholly coincide. There has been a degree of flexibility in the Latvian approach to nationality policy. Latvia is moving towards a more civic definition of nationalism in its citizenship policy. However, with priority for ethnic Latvians and Livs, in addition to language requirements, the legislation still contains a strong Latvian ethnic bias.

Given the country's turbulent history, it is perhaps not surprising that the main objective of Republic of Latvia foreign policy was to strengthen the country's independence and ensure that independence was irreversible. The aim was to achieve this by integrating with European security, political, and economic structures, participating in the formulation of European policy, promoting stability and security on the continent, as well as by taking an active part in global political processes.⁷ The Latvian government outlined the obligatory preconditions for meeting this task as the development of a parliamentary democracy, internal political stability, and continuing economic reform in Latvia. The statement highlighted the two contradictory wishes of the Latvian policy-makers, the rebuilding of the ethnic Latvian nation-state, and the democratization of a multi-national society. The demography of Latvia, as well as that country's wartime and Soviet experiences, influenced political decision-makers' views on citizenship policy. In Latvia, nationalist politicians expressed their ideas in legalistic terms. Focusing on sentiments of the extinction of the Latvian nation, nationalists aimed to restore the legitimate state, and restore the citizenry and descendants of the first independent Latvian republic.

Examination of the role of Latvian domestic actors suggests that, in the early days of independence, supporters of restitutionist nationalism held the balance of power in the domestic arena and, after much delay, ensured the enactment of a restrictive Citizenship Law. While the more liberal coalition partners in government required the

⁵ Baltic States, "Latvia: Ulmanis: Riga Ready for Talks on EU Membership", Moscow *INTERFAX* in English, 1735 GMT 20 March 1996. *FBIS-SOV-96-057, Daily Report*, 20 March 1996.

⁶ Baltic States, Latvia: "OSCE Official Sees EU Membership in 'Near Future'", Riga Radio Riga Network in Latvian, 1500 GMT, 8 October 1996. *FBIS-SOV-96-197, Daily Report*, 8 October 1996.

⁷ *Basic Directions of Latvia's Foreign Policy to the Year 2005, I* (Riga: Ministry of Foreign Affairs, Latvia, 1998).

support of radical nationalists to stay in power, there was a polarization of political opinion between those who favoured more concessions for the non-citizens and those who supported repatriation programmes. Such extreme differences in viewpoint provided little common ground on which to discuss Latvian nationality policy at a domestic level. Each President of Latvia since independence has acted as a means of transmitting international opinion into the domestic arena but this Latvian policy was not moderated until after the country had been rejected from EU accession talks in December 1997. Following this rejection, President Guntis Ulmanis and the political parties (apart from For Fatherland and Freedom/LNNK (*Latvijas Nacionālās Neatkarības Kustības*)) made a concerted effort to address international criticism of Latvian nationality policy and to modify legislation in line with EU backed OSCE recommendations. On the other hand, NGOs and the Russophone communities were, with a few exceptions, mostly ineffective in changing Latvian nationality policy. An examination of the role of domestic actors suggests that Latvia would have continued to maintain an exclusive nationality policy had they been exposed only to domestic influences.

III. External Pressures

Despite strong diplomatic and other efforts from a number of states to influence Latvian policy, the Latvian government resisted implementing significant changes to its preferred policy. This reluctance manifested itself most strongly prior to the rejection of their application to join EU membership talks. Following this, and in conjunction with advice received from external organizations such as the OSCE, Council of Europe, and the European Union, there have been several major changes to Latvian nationality policy. When examining their attempts to influence Latvian domestic policy, it is important to note the different priorities of external organizations regarding the rights of the non-citizen minority in Latvia. At an institutional level, organizations such as the OSCE whose key interest is security, exert normative persuasion upon the opposing parties in an interethnic dispute. The OSCE views nationality issues as not necessarily leading to conflict and seeks to establish mutually acceptable political compromises. Organizations such as the OSCE provide a very specific agenda for Latvian policy reform. This is a liberalizing agenda which was not always followed. The OSCE can only provide assistance and

encourage states to conform to international norms, and to meet their international treaty obligations. They cannot impose sanctions.

The European Union is interested in non-citizen minority relations in as far as they affect economic and political integration. Through the Copenhagen criteria of 1993, the European Union has laid down specific standards which must be met by aspirant members. These included the OSCE defined norms for nationality policy. The introduction of increasingly inclusive nationality policy in Latvia coincided with that country's unsuccessful attempts to join negotiations for membership of the EU until December 1999. Here, the very obvious sanction for non-compliance with EU wishes is the denial of membership. The following sections examine first how the desire to join the Council of Europe influenced the initial citizenship legislation followed by an assessment of how the Conference on Security and Cooperation (CSCE, later OSCE) sought to advise upon the *minutiae* of the Latvian policies and finally the influence of the EU enlargement process upon Latvian nationality policy. The article then concludes by providing an overview of current issues concerning the integration of non-citizens and minorities in Latvia in the context of broader questions regarding the respect for and protection of minorities in an enlarged European Union.

Council of Europe

Latvia applied to join the Council of Europe on 13 September 1991. However, nationality issues prevented Latvia from early accession.⁸ The Parliamentary Assembly of the Council of Europe (PACE) opinion on Latvia's membership application concluded that the lack of a Citizenship Law, and there being no legal status for non-citizens, remained key problems for the prospect of Latvian membership of the Council of Europe.⁹ Membership of the Council of Europe was seen as doubly important as it was viewed as a necessary prelude to European Union membership.¹⁰ In March 1994, a PACE delegation visited the Latvian government to review the Citizenship Law and to discuss a possible entry date for Latvia into the Council of Europe. CSCE observers noted that, as Latvian membership to the Council

⁸ Interview with Ole Espersen, Commissioner of the Council of the Baltic Sea States on Democratic Institutions and Human Rights, Including the Rights of Persons Belonging to Minorities, Copenhagen, 12 October 1999. In 1991, Ole Espersen was a member of the Council of Europe Parliamentary Assembly and the rapporteur on Latvia. He stated that one of the reasons Latvia gained Council of Europe membership later than Estonia and Lithuania was the initial lack of a Citizenship Law followed by the imposition of 0.1 per cent quotas.

⁹ Council of Europe Parliamentary Assembly, *Information Report on the Elections in Latvia 5 and 6 June 1993*, 10 December 1993, Doc. 6908.

of Europe was imminent, the Council's input into Latvian citizenship legislation was extremely important.¹¹

In June 1994, the Latvian Parliament (*Saeima*) adopted a version of the Citizenship Law which allowed for restricted naturalization. This stated that after 2000, a quota of 0.1 per cent of the population could be naturalized. However, the Council of Europe objected to this quota. This external pressure was recognized by the Latvian government and, in March 1994, a Latvia's Way¹² draft Citizenship Law was used as a discussion document for parliamentary negotiations. This document contained a Council of Europe formula for establishing a timetable for naturalization, which closely resembled the eventually adopted 'windows' system.¹³ A number of Council of Europe suggestions were accepted by the Latvian authorities, for example that invalids be exempt from the Latvian language and history tests. They also suggested that the Cabinet should not be responsible for naturalization but that a Naturalization Board should be established¹⁴ and that court appeals regarding naturalization should be expanded. However, at this stage, a number of Council of Europe recommendations were not implemented by the Latvian authorities, including priority for those rendered stateless by the fall of the Soviet Union, dual citizenship, the status of children born as non-citizens, and the total exclusion of former Soviet military personnel from citizenship.¹⁵ In the final presentation to the *Saeima* directly preceding the 21 June 1994 vote on the Citizenship Law, the Latvian Prime Minister clearly outlined the reversal of Latvia's move into the Western community should they fail to pass an internationally acceptable law. In addition, on refusing to sign the original Citizenship Law, which included the quota element, President Ulmanis also pointed out the consequences of such an exclusive law. He went on to say that Latvians had to develop an understanding of the suffering of others in order to promote reconciliation

¹⁰ *Appeal of the Cabinet of Ministers of the Republic of Latvia to President of the State Guntis Ulmanis*, June 1994.

¹¹ CSCE Mission to Latvia, *Activity Report # 3*, 16 March 1994.

¹² Latvia's Way, a liberal alliance founded in February 1993 to fight the *Saeima* elections, was a member of the then ruling coalition.

¹³ CSCE Mission to Latvia, *Activity Report # 6*, 15 July 1994. The windows system permitted only limited age groups to naturalize each year.

¹⁴ For a detailed explanation of the roles of the CID and the Naturalization Board, see Helen Morris, *External Actors and the Evolution of Latvian Nationality Policy 1991-1999*, Unpublished DPhil Thesis, University of Oxford, 2001, Chapter 3.

¹⁵ *The Latvian Citizenship Law and its Incorporation of International Recommendations*, Ministry of Foreign Affairs of the Republic of Latvia, 1994. *On Application by Latvia for Membership of the Council of Europe*, Parliamentary Assembly of the Council of Europe 1995 Session Opinion No. 183 (1995).

in the country. The Latvian leaders were acutely aware of the consequences of not following international guidelines in their citizenship policy.¹⁶

The PACE President praised President Guntis Ulmanis's decision to send the Citizenship Law back to the *Saeima* with a request to observe the recommendations of the experts of the Council of Europe. In a statement on 29 June 1994, PACE reported that the Citizenship Law now met all necessary requirements for Latvia to become a member of the Council of Europe.¹⁷ On 31 January 1995, the Council of Europe Parliamentary Assembly voted unanimously to grant membership to Latvia.¹⁸

The Council of Europe had a profound impact on Latvian nationality policy at the time of Latvia's accession, which coincided with the passing of Latvian citizenship legislation. The OSCE, Latvian parliamentarians, and others acknowledge that the desire to join the Council of Europe was key to Latvia passing the initial Citizenship Law and also to their amending it to remove the much criticized quota system. Once Latvia had become a member, it appears that Council of Europe leverage declined and their other recommendations, which coincided with the HCNM suggestions, were not adopted until after Latvia failed to gain entry into the EU accession talks. Those PACE recommendations which did not coincide with HCNM advice attracted strong criticism from the Latvian authorities and frustrated attempts by the international community in Riga to present Latvia with a uniform set of demands.

CSCE/OSCE

The CSCE/OSCE¹⁹ HCNM, Max van der Stoel, who made a number of visits to Latvia, beginning in early 1993, acted to seek the early resolution of ethnic tensions that could endanger peace, stability, or friendly relations between OSCE member states, acting as 'an instrument of conflict prevention at the earliest possible stage'.²⁰ The HCNM only addresses citizenship issues in relation to national minorities if they are a source of tension in interethnic relations within the country and, in his

¹⁶ CSCE Mission to Latvia, *Activity Report # 6*, 15 July 1994.

¹⁷ *BNS*, 29 June 1994.

¹⁸ *OMRI Daily Digest*, 1 February 1995.

¹⁹ The Conference on Security and Cooperation in Europe was formed in the 1970s and met as a series of conferences. It has developed into a permanent institutionalised arrangement. The First Review Conference in Budapest 10 October – 2 December 1994, decided that, from 1 January 1995, the CSCE should be renamed the Organization on Security and Cooperation in Europe.

²⁰ *OSCE High Commission on National Minorities Background*, March 2000.

judgement, could escalate into conflict.²¹ The High Commissioner tried to influence policy and gave legal advice on how to effect these changes. The OSCE Mission to Latvia, essentially a monitoring organization established in 1993, tackled citizenship issues, gathered information, and reported on developments which concerned OSCE principles, norms, and commitments. It was also available to advise the Latvian government, institutions, organizations, and individuals concerned with citizenship issues.²² The main concern of the HCNM was that laws that were being drafted in Latvia were in accordance with Latvia's international obligations. The Mission tended to work through embassies, keeping them informed of developments and suggesting that they get involved in these issues rather than initiating direct action from the Mission itself.²³

Initially the CSCE concentrated its efforts on monitoring the progress of troop withdrawal negotiations. In 1993, the efforts of the CSCE turned increasingly to the realm of nationality policy. Following visits to Latvia in 1993, the HCNM made a number of recommendations concerning the non-Latvian population. Working from the assumption that the vast majority of non-Latvians would remain in Latvia and that, therefore, their needs had to be addressed, he did not accept calls to assist in the repatriation of non-citizens but warned of the serious international repercussions such a policy would prompt, quoting Latvian data from March of 1993 that suggested that, out of a total of 617,443 persons registered as inhabitants of Latvia who were not Latvian citizens, 593,008 wanted to acquire citizenship. He counselled against setting requirements for citizenship so high that a large percentage of applicants would be unable to meet them. Instead, van der Stoep suggested that Latvia should make sure its requirements for citizenship would not, broadly speaking, exceed those of other CSCE states. He also suggested that the Latvian government's need to preserve the Latvian nation would be best met by means other than the Citizenship Law in order to promote and strengthen the Latvian identity, especially in the cultural, educational, and linguistic fields. The HCNM recommendations suggested that the adaptation of Latvia to an independent state would be accelerated if Paragraph 15 of the 1992 CSCE Helsinki Summit Declaration were rapidly implemented and that there would be "the conclusion, without delay, of agreements, including timetables, for the early,

²¹ Arie Bloed, 'Citizenship Issues and the OSCE High Commissioner on National Minorities', Siofra O'Leary and Teija Tiilikainen, *Citizenship and Nationality Status in the New Europe*, (London: Sweet & Maxwell, 1998), p. 41.

²² *The OSCE Mission to Latvia Survey*, 17 January 2000.

²³ Interview with Undine Bollow, Deputy Head of OSCE Mission to Latvia, 13 October 1998.

orderly and complete withdrawal of foreign troops from the territories of the Baltic states”.²⁴ The letter indicated that the rapid adoption of a Citizenship Law would help to give the non-Latvian population confidence and promote continued harmonious relations between Latvians and non-Latvians. There was also a proposal to establish a National Commissioner on Ethnic and Language Questions to examine complaints about differing interpretations of the same laws by different authorities and also to act as a go-between for the government and the community concerned. The HCNM advised that children born in Latvia, who would otherwise be stateless, should be awarded citizenship. Van der Stoel proposed that the residency requirement be five years. This would be a conciliatory gesture as the longer residency, favoured by the more radical nationalists, of 16 years, would include 93 per cent of non-citizens and a ten-year requirement would include 98 per cent. The HCNM suggested that there should not be a delay in acquiring citizenship once all the requirements were met, that language requirements should not exceed conversational levels, and that people over 60 should be exempt from the language examinations. Highlighting the lack of Latvian language skills in the non-Latvian population, van der Stoel said that the Latvian authorities had to increase their efforts in assisting the non-Latvians to gain a reasonable level of Latvian language and to clarify the Language Law. He added that the government should initiate a visible policy of dialogue and integration towards the non-Latvian population and make sure the non-Latvian population was aware of its rights and obligations.²⁵

In response to these recommendations, the Latvian government emphasized that the situation in Latvia was the consequence of the suffering Latvia faced under Soviet occupation. The lack of citizenship legislation was due to there not being a legally elected legislature in Latvia. The 1990 Supreme Soviet, which was operating as the government in Latvia, had been elected by all Latvian residents while nationalists felt that only a parliament elected by Latvian citizens alone could legitimately decide the new Citizenship policy. The *Saeima* to be elected in June 1993 would be able to enact legislation and all recommendations would be presented to the *Saeima* at this time. The Minister felt that the existing system of human rights protection in Latvia was

²⁴ Conference for Security and Co-operation in Europe, Summit Helsinki 9–10 July 1992, CSCE Helsinki Document 1992 *The Challenges of Change*, paragraph 15.

²⁵ Letter to Georgs Andrejevs, Minister for Foreign Affairs of the Republic of Latvia, from CSCE HCNM Max van der Stoel, The Hague, No 238/93/L/Rev, 6 April 1993.

sufficient and he claimed that there was no need for new institutions for problem solving.²⁶ This early period did not produce enacted nationality legislation in Latvia.

Following the election of 1993, the *Saeima* produced a draft Citizenship Law. The Bill passed its first reading on 25 November 1993. The HCNM gave the following response to the draft: all non-Latvians, with the exception of those who constitute a clear threat to the vital interest of Latvia, should obtain the right to become Latvian citizens if they expressed such a wish, provided that they accepted certain conditions. They would have to show their interest in becoming integrated into Latvian society by acquiring a basic knowledge of the Latvian language, which would be tested in the course of the naturalization process according to standardized procedures; acquiring a knowledge of the basic principles of the Latvian Constitution, which would also be tested during the naturalization process according to standardized procedures; and swearing an oath of loyalty to the Republic of Latvia.²⁷

Referring to the actual draft law, the HCNM criticized Article 9, which made annual quotas to be determined by the government and approved by the *Saeima* a central element in the naturalization system. The law-makers had stated that the quotas would be decided upon “taking into consideration the demographic and economic situation in the country, in order to ensure the development of Latvia as a single-nation state”²⁸ This system gave the government considerable latitude in deciding how many people became citizens and presented the prospect that very few people would gain citizenship. Van der Stoel then outlined what was to become the ‘windows’ system. He argued again for a five-year residence requirement. He did not express outright opposition to some groups receiving priority access to naturalization but felt that it was important to note that provisions for privileged groups did not contravene Articles 1(3) and 5(d) of the International Convention on the Elimination of All Forms of Racial Discrimination, prohibiting discrimination based on nationality.²⁹ He also felt that, in awarding citizenship for special accomplishments, the authorities might consider dropping the naturalization criteria. As his initial

²⁶ Letter to Max van der Stoel, CSCE High Commissioner on National Minorities, from Georgs Andrejevs, Minister of Foreign Affairs, Republic of Latvia 18 April 1993.

²⁷ Letter to Georgs Andrejevs, Minister of Foreign Affairs of the Republic of Latvia, from CSCE HCNM Max van der Stoel, The Hague, 10 December 1993.

²⁸ Quoted in Letter to Georgs Andrejevs, Minister of Foreign Affairs of the Republic of Latvia, from CSCE HCNM Max van der Stoel, The Hague, 10 December 1993.

²⁹ United Nations High Commissioner for Human Rights, *International Convention on the Elimination of All Forms of Racial Discrimination*, Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965 *entry into force* 4 January 1969, in accordance with Article 19 of the Convention.

recommendations were ignored, van der Stoel again stressed that children, who would otherwise be stateless, should be awarded citizenship. Specific recommendations included advice that the courts should be responsible for deciding if people were not eligible for citizenship and that actions which made one ineligible were clearly defined to try and avoid arbitrary denial of citizenship. The correspondence ended with a request that the Latvian government inform non-citizens of the procedures for gaining citizenship.³⁰

In December 1993, the recently opened CSCE Mission to Latvia urged the Russian Federation to draw up a specific timetable for troop withdrawal.³¹ At this time, the Mission was concerned with issues of citizenship and Latvian compliance with CSCE principles, norms, and commitments. The CSCE Mission to Latvia initially worked from the premise that non-citizens would have no political rights but that they would enjoy full and equal social rights, that is, the right to an education, employment opportunity, permanent residence permit, etc.³² Given a strict definition of human rights, the Mission could endorse the findings of other external actors that the problems and abuses in Latvia did not fit into the category of human rights abuses. However, the Mission felt that the Citizenship and Immigration Department (CID) practice of withholding residency status for a large number of non-citizens impacted on the fundamental interests of these individuals, concerning their home, family, and work.³³ One concern raised by a Mission member in 1994 was the non-implementation of court decrees against the CID regarding the registration process.³⁴ This later became a major concern. Because the issue of citizenship was politicised at the time, registration and naturalization were run by separate organizations. The CID was not very cooperative towards the OSCE. They refused to reveal all their regulations, claiming that they were internal and that the OSCE could not have access to them. As a result of the attitudes of the CID and the lack of any naturalization process, many potential candidates for citizenship were lost in the early 1990s. These individuals simply gave up and adjusted to life without political status.³⁵

³⁰ Letter to Georgs Andrejevs, Minister of Foreign Affairs of the Republic of Latvia from CSCE HCNM, Max van der Stoel, The Hague, 10 December 1993.

³¹ *RFE/RL*, 1 December 1993.

³² Interview with Helge Blakkisrud, NUPI, OSCE Mission to Latvia 1994, 14 June 2000.

³³ CSCE Mission to Latvia, *Activity Report # 2*, 7 February 1994.

³⁴ For a full explanation of the registration controversy, see Helen Morris, *External Actors and the Evolution of Latvian Nationality Policy 1991-1999*, Unpublished DPhil Thesis, University of Oxford, 2001, Chapter 3.

³⁵ Interview with Helge Blakkisrud, NUPI, OSCE Mission to Latvia 1994, 14 June 2000.

The CSCE Mission arrived at a difficult time in Latvia when the opinions within parliament on the citizenship question were becoming increasingly polarized, making a liberal and inclusive piece of legislation less likely. Early on in discussions with the Ministers of Justice and Interior, the head of the Parliamentary Committee on Human Rights and a representative of the Ministry of Foreign Affairs, the CSCE Mission identified the CID as the continuing source of the vast majority of problems facing non-citizens in Latvia. Its refusal to provide several thousand long-term residents with a residency stamp and, in addition, ignoring court orders against CID decisions meant that these stateless individuals faced problems in finding work, accommodation, child, and health benefits, etc. The Minister for the Interior undertook to examine five representative cases and to establish why the system had failed to protect their rights.³⁶ The CSCE Mission gained an assurance from the CID that court rulings would be implemented.³⁷ However, implementation was dependent on the will of individuals and did not usually take place. By the end of July 1994, the CSCE reported that CID officials in Jelgava, on instruction from the radical nationalist *Latvijas Nacionālās Neatkarības Kustības* (LNNK) party, visited, unannounced, a number of houses late at night in the company of police officers to annul the residence stamps of non-citizens. The failure of the central CID to condemn these actions led the CSCE to voice concern that they would be repeated elsewhere. The CSCE Mission reported that reaction to the work of external organizations in Latvia was one of resentment at these organizations' perceived interference in Latvian internal affairs.³⁸

The Bill on Local Elections, passing its second reading in January 1994, was considered by van der Stoel to be inadmissible as it included the removal of non-citizens from participation in local government.³⁹ However, the HCNM's advice had no impact and non-citizens were not permitted to take part in local elections.

In January 1994, commenting on a draft of the Citizenship Law, van der Stoel suggested that the number of years a person had lived in Latvia should count towards citizenship. *Saeima* Chairman Anatolijs Gorbunovs opposed this, saying that it would lead to a huge wave of naturalization. Gorbunovs, instead, promoted the idea of a

³⁶ CSCE Mission to Latvia, *Activity Report # 2*, 7 February 1994.

³⁷ CSCE Mission to Latvia, *Activity Report # 5*, 30 May 1994.

³⁸ CSCE Mission to Latvia, *Activity Report # 6*, 15 July 1994; CSCE Mission to Latvia, *Activity Report # 7*, 30 July 1994.

³⁹ *ITAR-TASS*, 5 January 1994; *FBIS-SOV-94-004, Daily Report*, 6 January 1994.

repatriation programme which would encourage people to leave voluntarily. However, despite this exchange, the Latvian Foreign Ministry press service reported that, at the meeting with the Head of the Foreign Political Department, the High Commissioner said he could “see no violations of human rights in Latvia”.⁴⁰ This followed on from van der Stoel’s earlier statement that there had been no evidence of persecution of the non-Latvian population since the re-establishment of Latvian independence.⁴¹ By March 1994, Latvian Foreign Minister Georgs Andrejevs was sounding more conciliatory. In an interview with a Russian language newspaper, he stated that Latvia’s policy choices were either to return to the fold of the Commonwealth of Independent States (CIS) or, while living alongside the CIS, to “relate more closely to western society. And if we choose this second path, we will have to conform to a whole series of criteria. Otherwise we will not succeed”.⁴²

On 22 July 1994, the *Saeima* passed amendments to the Citizenship Law to end the quota system. The original law adopted earlier in the month received sharp criticism from external actors, including the HCNM.⁴³ While the HCNM could only recommend changes to the Latvian government and had no sanctions to enforce such changes, a number of suggestions regarding the Citizenship Law were incorporated into the legislation. These included the adoption of a five-year residency requirement and the removal of the quota system. As the CSCE/OSCE does not possess any power of enforcement in and of itself, it depends upon the support of member states to enforce its recommendations. For example, during the controversy over quotas in the course of the Third Reading of the Citizenship Law in 1994, the CSCE Mission to Latvia lobbied the ambassadors of the EU countries in Latvia to approach different factions within the *Saeima* to try and persuade them to drop the quota system and introduce the CSCE backed ‘windows’ system instead. At the time, Latvia was interested in joining the Council of Europe, which was, in turn, seen as a necessary prelude to joining the EU. This was a major motivation which the CSCE member states could use to persuade Latvia to abide by CSCE recommendations. Although the effort was coordinated by the CSCE and was an attempt to bring organized pressure to bear on different factions, it was ultimately the decision of the ambassadors of

⁴⁰ *ITAR-TASS*, 7 January 1994; *FBIS-SOV-94-006, Daily Report*, 10 January 1994.

⁴¹ Letter to Georgs Andrejevs, Minister for Foreign Affairs of the Republic of Latvia, from CSCE HCNM, Max van der Stoel, The Hague, No 238/93/L/Rev, 6 April 1993.

⁴² CSCE Mission to Latvia, *Activity Report # 3*, 16 March 1994.

⁴³ Stephen Erlanger, “Latvia Amends Harsh Citizenship Law that Angered Russia”, *The New York Times*, 26 July 1994.

individual countries as to how to convince the factions within the *Saeima*. All countries, except for the Russian Federation, agreed that the Soviet immigrants should initially be excluded from Latvian citizenship. The disagreement with the Latvian authorities was over how these individuals should then be re-integrated into Latvian society. In relation to this goal of an integrated society, the main priority in summer 1994 was to abolish the quota system to avoid prolonging the integration process indefinitely.⁴⁴

The role played by the CSCE/OSCE was key in the development and application of citizenship policy in Latvia. Its recommendations were much more direct than those of the EU, which was more concerned with economic and trade matters. The EU felt that the CSCE/OSCE covered nationality policy sufficiently so that they could simply follow the CSCE/OSCE recommendations.⁴⁵ These were seen to be effective for a number of reasons. First, the HCNM was active on the ground; second, he was specifically charged with reducing interethnic tension; and third, OSCE membership was broader than that of the EU, Council of Europe, or the Council for the Baltic Sea States (CBSS).

When the HCNM visited Latvia in January 1996 to assess the process of naturalization he offered a number of recommendations. At the time of the visit the number of registered aliens and stateless persons totalled 731,078.⁴⁶ The slow rate of naturalization prompted suggestions that the cost of learning Latvian, notarising up to 25 documents, and the application fee may have been prohibitively high. The language and history exams were criticized by the HCNM⁴⁷ for demanding more than a basic knowledge. Given that polls indicated a high interest in naturalization compared with the low take-up rate, the HCNM felt that people were being put off by the requirements.⁴⁸ He suggested the following: candidates' scores for oral and written language tests should be combined rather than insisting that each section be passed individually; a reduction in the history requirements; a reduction in the fee; and exemption for over sixty-fives for the language test.⁴⁹

⁴⁴ Interview with Helge Blakkisrud, NUPI, OSCE Mission to Latvia 1994, 14 June 2000.

⁴⁵ Interviews with European Commission Official, 20 October 1998; Nordic Foreign Ministry Official, 11 October 1999.

⁴⁶ Figure for 10 October 1995.

⁴⁷ Letter to Valdis Birkavs, Minister for Foreign Affairs of the Republic of Latvia from OSCE HCNM, Max van der Stoep, The Hague, 14 March 1996.

⁴⁸ See discussion of opinion poll, Helen Morris, *External Actors and the Evolution of Latvian Nationality Policy 1991-1999*, Unpublished DPhil Thesis, University of Oxford, 2001, Chapter 3, p. 119.

⁴⁹ Letter to Valdis Birkavs, Minister for Foreign Affairs of the Republic of Latvia from OSCE HCNM, Max van der Stoep, The Hague 14 March 1996.

In response to these comments, the Latvian authorities replied that the Naturalization Board had issued a publication, 'The Basic Issues of Latvian History and the State Constitutional Principles' to assist naturalization applicants. The chapters were summarised in Russian and English and the book included the basic facts required for the history and constitution tests. The Naturalization Board recommended a reduction in the naturalization fee by 50 per cent for students aged 16 to 20. However, on 20 February 1996, the Cabinet of Ministers affirmed the previous naturalization fee for 1996, with the proviso that they would discuss reduced categories the following year. The suggested alterations to the language testing were rejected on the grounds that they would necessitate a change in the law, which was at that time prohibited by the government coalition agreement. The same argument was used against relaxing the requirements for persons over 65. Following the HCNM advice that Latvian language learning should be a priority, the government outlined the United National Development Programme language programme.⁵⁰

As the pace of naturalization continued to be slow, van der Stoel stated, on 8 April 1997 during a visit to Latvia, that the citizenship test was too complex and should be simplified so that more than 4 per cent of the estimated 55,000 eligible applicants could apply successfully for citizenship.⁵¹ The Latvian Naturalization Board head claimed that the test was not too difficult and that one of the reasons that applications were low was because of young males wanting to avoid military service.⁵² Through spring and autumn 1997, van der Stoel continued to urge Latvia to drop the nationality entry in the passport and to grant citizenship automatically to children born in Latvia with no other citizenship.⁵³ He reiterated these themes on a visit to Riga and also recommended exemption from the language examination for applicants over 65, reducing the naturalization fee, and making the nationality entry in passports voluntary.⁵⁴

By 1997, both OSCE Mission Heads also promoted an increase in the pace of naturalization. Charles Magee, departing from his post as the head of the OSCE Mission in Latvia, recommended making the naturalization process in Latvia easier

⁵⁰ Letter to Max van der Stoel, OSCE HCNM from Latvian Minister for Foreign Affairs, Valdis Birkavs, 22 April 1996.

⁵¹ *RFE/RL*, 8 April 1997.

⁵² *RFE/RL*, 10 April 1997.

⁵³ *BNS*, 17 April 1997; The fifth item on the Soviet passport required the holder to state their nationality. This had to be the nationality of one or other parent regardless of their own place of birth or residence.

⁵⁴ *Latvian Radio*, Riga, 29 October 1997; *BBC SWB*, SU/3064, 29 October 1997.

and faster, urging the *Saeima* to support the advice of President Ulmanis. Magee also stated that such a decision would speed up Latvia's movement toward the European Union.⁵⁵ Richard Samuel, on taking up the post as the new leader of the OSCE Mission to Latvia in 1997, also used the opportunity to try and persuade the Foreign Minister of the need to accelerate naturalization. President Ulmanis reminded Samuel that the government coalition agreement prevented any changes to the Citizenship Law but indicated that there could be a possibility for public discussion regarding changes to legislation. These might include the opportunity to give citizenship to children born in Latvia whose parents were not citizens, and the reduction of the unjustified number of professional restrictions on non-citizens.⁵⁶

This lack of progress on increasing the rate of naturalization continued until December 1997 when Latvia failed to gain entry to EU accession talks. In line with the OSCE's desire for an increased pace of naturalization, the OSCE Mission to Latvia was closely involved in the *Towards a Civic Society* survey project, which sought to establish why so few people applied for naturalization.⁵⁷ The project found that one factor discouraging naturalization was the 'windows' system, which prevented families from applying together.

As Russian–Latvian relations deteriorated in March/April 1998, a session of the OSCE Permanent Council in Vienna expressed profound regret at the breaking-up of the Russian-speaking pensioners' demonstration and the defiling of Soviet servicemen's graves in Liepāja. However, the OSCE Mission Head, Richard Samuel sought to play down the protest, referring to the events of March 1998 as a social, not an ethnic conflict.⁵⁸ He felt it was a protest about living conditions and poverty rather than ethnic identity. Instead, Samuel used the opportunity to highlight the problems of integration, naturalization, and the draft laws affecting the non-Latvian population.⁵⁹

IV. External Demands United?

Following the March 1998 crisis in Russian–Latvian relations, many Western actors, including the EU, agreed that the HCNM recommendations would also be their requirements for Latvian nationality policy. By April 1998, the HCNM felt that

⁵⁵ *Riga Radio Riga*, 8 September 1997; *FBIS-SOV-97-251, Daily Report* 8 September 1997.

⁵⁶ *Riga Radio Riga*, 7 October 97; *FBIS-SOV-97-280, Daily Report*, 7 October 1997.

⁵⁷ Interview with Undine Bollow, Deputy Head of OSCE Mission to Latvia, 13 October 1998.

⁵⁸ *Moscow Russkii Telegraf*, 17 March 1998 p 12; *FBIS-SOV-98-076, Daily Report*, 17 March 1998.

Latvian parliamentarians were increasingly willing to follow his advice on nationality policy. On the question of granting children of non-citizens citizenship if they were born in Latvia, van der Stoep noted that such a mechanism already operated in other European countries, especially the EU, of which Latvia wished to become a member.⁶⁰ The Latvian Cabinet followed the advice of the HCNM in tabling amendments to allow all children born in Latvia after 21 August 1991 to be awarded citizenship. Originally, they had wanted the law to make these children wait until the age of 16 before being allowed to apply. The HCNM advised that such an arrangement would be inconsistent with international standards and would provoke a negative response in Europe.⁶¹ An October 1998 referendum confirmed the abolition of the 'windows' system and the right of children of non-citizens to gain Latvian citizenship through registration.

The HCNM provided the Latvian authorities with very detailed advice on how their legislation could be made to comply with their international obligations and also to promote a more integrated and peaceful Latvian society. The laws, which were in place by the end of 1999 when Latvia gained entry to EU accession talks, were broadly in line with the HCNM recommendations. However, the advice given by the HCNM was not fully taken until Latvia was rejected from the first echelon of EU entry talks. Prior to this, the changes which were made, for example the dropping of the quota system, were channelled through countries rather than directly through the OSCE. The OSCE advised diplomatic representatives in Riga of their wish to abolish the quota system. The diplomats representing the EU countries in Riga each approached a political faction in the *Saeima* and encouraged it to vote against the use of quotas in the naturalization process.⁶² The HCNM did not himself have the power to compel Latvia to change its laws. However, as the process advanced, the advice of the HCNM became the measure for all countries (except the Russian Federation) seeking to influence Latvian nationality policy. Having a mission in Latvia the OSCE was better placed than the Council of Europe or the CBSS to monitor the nationality situation closely and to build a constructive relationship with the Latvian authorities. They could also liaise more easily with international state actors and institutional representatives concerned with Latvian nationality policy.

⁵⁹ *Nezavisimaya Gazeta* 14 March 1998, pp. 1, 6.

⁶⁰ *Latvian Radio*, Riga, 2 April 1998; *BBC SWB*, SU/3193, E/2, 4 April 1998.

⁶¹ *RFE/RL*, 7 May 1998.

⁶² Interview with Helge Blakkisrud, NUPI, OSCE Mission to Latvia 1994, 14 June 2000.

Initially, the OSCE Mission was on the ground to provide feedback and to monitor the situation and highlight specific events and to gain support for campaigns such as that against the discrimination in the registration process. The problem was that the Mission did not possess any real independent means of persuasion so could only really be effective if they had the support of other states, especially EU members, through which to channel their suggestions. However, the fact that the OSCE was a constant presence and a reminder to the Latvian authorities of Latvia's international obligations regarding nationality policy may have helped to shape the form of Latvian nationality policy. Having every policy proposal closely monitored and commented upon by the OSCE Mission may have brought Latvia to the point where the final pressure from the EU was effective in getting them to abide by all OSCE recommendations regarding citizenship, language, and education policies.

V. EU ambitions

Latvia applied to join the EU on 13 October 1995.⁶³ The EU set very specific criteria for membership. If Latvia does not fulfil these, including those relating to nationality policy, they will not gain admission. This section examines what the EU wanted regarding Latvian nationality policy, what instruments they had to influence it, and how successful they were in influencing it. The concept of Latvian foreign policy, delineated by the Latvian government and accepted by the *Saeima* in 1995, stated that accession to the EU was vital for the survival of the Latvian state and people. The Latvian government believed that alignment with the EU economic system was bound to promote faster development of the Latvian economy, science, education, and culture.⁶⁴ A less explicit reason for wanting membership may be their preference for being in the orbit of power of the EU rather than the Russian Federation.

EU Enlargement

In June 1993, the Copenhagen European Council⁶⁵ committed the EU to further enlargement, agreeing that the countries of Central and Eastern Europe should

⁶³ *Saeimas Politisko Partiju Deklarācija*, Jūrmala, 14 October 1995.

⁶⁴ *Latvijas Republikas valdības memorands par Eiropas savienības Komisijas dokumentu 'Agenda 2000 Eiropas Komisijas atzinums par Latvijas pieteikumu iestāties ES'*, [Memorandum of the Government of the Republic of Latvia on Agenda 2000 European Commission Opinion on Latvia's Application for Membership of the European Union], 1997.

⁶⁵ Meetings of EU Heads of State and Government.

become members of the EU when they were able to assume the obligations of membership. The European Council further agreed that the Union's capacity to absorb new members was also an important consideration.⁶⁶ In order to accede to the EU, the European Council in Copenhagen declared that the associated countries of Eastern and Central Europe had to have achieved stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities; there had to be a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union; and, finally, applicants had to have the ability to take on the obligations of membership, including adherence to the aims of political, economic, and monetary union.

In response to Latvia's application to join the EU, the European Commission (EC) provided an assessment of Latvia, published in the 1997 European Commission *Agenda 2000* Report. This section therefore concentrates on that part of the EU assessment covering Latvia's ability to sustain institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities to try and establish if Latvia's desire to join the EU has contributed to the liberalization of Latvian nationality policy.⁶⁷

In preparation of their Regular Reports, the Commission used assessments made by the member states, particularly with respect to the political criteria for membership, and the work of various international organizations. In particular, they used the assessments of the Council of Europe, the OSCE, and the international financial institutions, as well as that of non-governmental organizations.⁶⁸

With reference to naturalization, the EU's main recommendations related to the 'windows' system and the granting of citizenship to children born in Latvia to non-citizen parents. The Report suggested that the 'windows' system was no longer required as there had not been the expected flood of applicants. Given the shortage of applicants and the inhibiting effect of the 'windows', the EC suggested that the 'windows' were no longer warranted. The Report suggested that Latvia had to accelerate the process of naturalization and also, whilst the proportion of non-citizens remained so high, must also reduce the differences in status between citizens and non-

⁶⁶ UK: Foreign and Commonwealth Office White Paper on IGC, 13 March 1996; *FBIS-WEU-96-052, Daily Report* 13 March 1996.

⁶⁷ *Europe Agreement establishing an association between the European Communities and their Member states, of the one part, and the Republic of Latvia, of the other part*, 12 June 1995; *Agenda 2000 – Commission Opinion on Latvia's Application for Membership of the European Union, DOC/97/14* Brussels, 15th July 1997, Preface p. 2.

⁶⁸ *Regular Reports for the Commission on Estonia's Progress Towards Accession*, 1998.

citizens.⁶⁹ An additional criticism was the high examination enrolment fees. The EU has campaigned for an inclusive society but stopped far short of recommending an all-inclusive citizenship policy, perhaps because the EU's own member states would be reluctant to expose their own nationality policies to such close scrutiny. The Latvian response to the EU Report that the naturalization fee was too high was to pledge that the Ministry of Justice would draft *Regulations on Fee for Examination of Naturalization Applications* to determine a differentiated fee structure.⁷⁰ A decision was subsequently taken by the Cabinet of Ministers on 22 July 1997 to decrease the naturalization fee for certain groups of applicants to further promote naturalization; for other groups, including orphans, the naturalization fee was abolished altogether.⁷¹

The *Agenda 2000* Report also suggested that Latvia should make it easier for stateless children born in Latvia to become naturalized, so that the *European Convention on Nationality* concluded by the Council of Europe could be applied. The unequal status of citizens and non-citizens also concerned the EU. There was concern expressed about the need to know Latvian in order to receive unemployment benefit, the obligation to pass a high-level language test to be able to stand for election, and occupational restrictions. The Latvian government undertook to abolish these instances of discrimination promising to take the first legislative steps in this direction at the beginning of 1997. The EU Report discussed the entry of EU nationals to the Latvian labour market. These employment restrictions could raise the spectre of an EU national being permitted to work in certain occupations from which non-citizens holding Latvian non-citizen passports, and permanently resident in that country, were barred. Latvian Prime Minister Guntars Krasts said that the process of abolishing the ban on some professions for non-citizens in Latvia would be inevitable because the World Trade Organization, which Latvia planned to join, had much stricter criteria in the field of free competition than the EU.⁷² The EC suggested that the right to vote in local elections would be a powerful factor for encouraging integration.

The Report concluded that there were no major problems over respect for fundamental rights, but that Latvia must take measures to increase the rate of naturalization and improve the integration of Russian-speaking non-citizens into

⁶⁹ 'Minority Rights and the Protection of Minorities' *Agenda 2000 – Commission Opinion on Latvia's Application for Membership of the European Union*, DOC/97/14 Brussels, 15 July 1997, p. 20.

⁷⁰ *Memorandum of the Government of the Republic of Latvia on Agenda 2000, European Commission Opinion of Latvia's Application for Membership of the European Union*, 1997.

⁷¹ *Basic Directions of Latvia's Foreign Policy to the Year 2005*, I, Ministry of Foreign Affairs, Riga, 1998.

⁷² *FBIS-SOV-97-293: Daily Report*, Riga Radio Riga Network in Latvian 1300 GMT 20 October 1997.

Latvian society. Latvia was also required to ensure general equality of treatment for non-citizens and minorities, in particular for access to professions and participation in the democratic process. Bearing in mind these reservations, according to the EC, Latvia demonstrated the characteristics of a democracy, with stable institutions guaranteeing the rule of law and human rights.⁷³ In the light of the considerations of the Report, the Commission concluded that negotiations for accession to the European Union should be opened with Latvia as soon as it had made sufficient progress in satisfying the conditions of membership defined by the European Council in Copenhagen. The EC forecast that the reinforced pre-accession strategy would help Latvia to prepare itself better to meet the obligations of membership, and to take action to improve the shortcomings identified in the *Agenda 2000* Opinion. The Commission presented a report at the end of 1998 on the progress Latvia had achieved.⁷⁴

The EU Commission proposed that the following countries be included in the first group allowed to negotiate on membership to the Union: Estonia, Poland, the Czech Republic, Hungary, Slovenia, and Cyprus. The *Agenda 2000* judgement made it clear that none of the applicants met the criteria for accession but that the six selected countries came the closest. At the 13 December 1997 Luxembourg Summit of the European Council, Estonia, along with five other countries, was given the 'green light' to start accession talks in April 1998.

On receipt of the EU assessment of Latvia's suitability for joining the EU, the Latvian government responded with a promise to prepare a differentiated fee structure, to analyse the causes of slow naturalization, and to examine the restrictions on employment of non-citizens.⁷⁵ Following *Agenda 2000*, the EU also sought to continue to assist Latvia in the practical aspects of nationality policy. The UNDP-administered Latvian language training programme was funded by the EU PHARE programme. On EU advice, the information campaign was extended as not all non-citizens knew the requirements for naturalization. The EU helped to provide information sources and publications, including a book on how to become a citizen. Also following the publication of the *Agenda 2000* Opinion, the naturalization

⁷³ *Agenda 2000 – Commission Opinion on Latvia's Application for Membership of the European Union*, DOC/97/14 Brussels, 15 July 1997.

⁷⁴ *Agenda 2000 – Commission Opinion on Latvia's Application for Membership of the European Union*, DOC/97/14 Brussels, 15 July 1997, p. 114.

⁷⁵ *The Government of the Republic of Latvia Action Plan for Intensifying Integration into the European Union*, 1997.

application fee was reduced from 30 to 15 lats⁷⁶ for some groups and the ban on non-citizens being fire-fighters and pharmacists lifted.⁷⁷

As tension rose around March 1998, the EU sought to downplay events, taking the opportunity to reiterate concern over the pace of naturalization.⁷⁸ The EU backed the OSCE stance that interethnic relations in Latvia were harmonious and urged that the incident not be blown out of proportion and be allowed to discontinue efforts to integrate ethnic minorities. A statement by permanent and associate members of the EU suggested that “confrontational statements and threats” could only harm the integration process. They emphasized that the EU was still concerned about the slow rate of naturalization. The Council of the European Union also stressed that a short-term goal for Latvia had to be to take measures to facilitate the naturalization process to better integrate non-citizens, including stateless children, and to enhance Latvian language training for non-Latvian speakers.⁷⁹

VI. Citizenship Law Amended

After the rejection of Latvia from the first echelon of EU accession talks and a further deterioration in Latvian–Russian relations, which was criticized by the West, the Latvian government took steps to amend the Citizenship Law to abolish the ‘windows’ system and allow children born in Latvia to non-citizen parents to register for citizenship. Following the June 1998 *Saeima* approval of the Citizenship Law amendments, the European Commission stated that the amendments met the recommendations made by the OSCE and addressed “one of the priorities in Latvia’s preparations for EU membership”. The statement added that the application of this legislation would greatly facilitate the integration of minorities in Latvia.⁸⁰

Prior to the adoption of the amendments and subsequently in the run-up to the referendum⁸¹ on the liberalization of the Citizenship Law, Latvia was subjected to

⁷⁶ One Euro is worth around 0.62 Lats, the average monthly net wage in Latvia in 1998 was 97 Lats. *Latvijas Statistikas Gadagrāmata 1999*.

⁷⁷ Interview with Katarina Areskoug Latvian Desk Officer European Commission Brussels, 12 March 1998.

⁷⁸ *RFE/RL*, 20 April 1998.

⁷⁹ European Council and Council of the Union, *Council Decision of 30 March 1998 on the Principles, Priorities, Intermediate Objectives and Conditions in the Accession Partnership with the Republic of Latvia*, OJ n L 121 of 23/04/1998, p. 0021–0025, 98/263/EC.

⁸⁰ *RFE/RL*, 24 June 1998.

⁸¹ The immediate implementation of these changes was delayed, as the For Fatherland and Freedom Party collected the required number of deputies’ signatures to prevent the amendments from going into force for 2 months. During that period, it collected the signatures of more than 10 per cent of voters required to hold a referendum on the amended law.

sustained pressure from external actors to encourage a vote in favour of the amendments. This pressure was utilized by those for and against the Citizenship Law amendments. Those opposed to the amendments cited European pressure as undue interference in the internal mechanism of Latvian policy-making. President Ulmanis also stated that the referendum campaign had drawn sufficient public support because people perceived Western recommendations as pressure and they wanted to have a popular vote on this sensitive issue.⁸² Those who wished for the amendments to go through worked on the assumption that there was no alternative but for Latvia to join the European Union. In order to do so they had to abide by certain rules so it was in the country's interests to vote in favour of the amendments.⁸³

After the *Saeima* vote, but before the referendum, EU Commissioner for External Affairs Hans van den Broek, warned Latvia against delaying the granting of citizenship to the Russian minority.⁸⁴ He stressed that passing the amendments would avoid the creation of a divided society in Latvia and would also reduce tensions with the Russian Federation.⁸⁵

The European Parliament sustained the pressure on the EU to stress the need for improved rates of naturalization. The rapporteur on Latvia for the European Parliament Committee on Foreign Affairs and Defence Policy, Ernesto Caccavale, stressed that further movement toward the European Union depended on the success of the referendum on the amendments to the Citizenship Law.⁸⁶ In the year and a half before the referendum vote, the EU had made it clear that liberalization of the Citizenship Law and the integration of the non-citizen population were prerequisites for meeting the political criteria. With not all member states in favour of admitting Latvia, that country had to make sure that there were no excuses to exclude Latvia from accession talks. The HCNM received many letters of complaint from nationalist politicians about undue interference in Latvian politics. The EU on the other hand were not seen by Latvian nationalists to be acting as an instrument of Russian Federation policy and did not receive Latvian nationalists' letters of complaint.⁸⁷

⁸² 'West Blamed for Controversial Latvian Citizenship Referendum', *New Europe*, 30 August–5 September 1998.

⁸³ Interview with EC Official, Riga, Latvia, 20 October 1998. Interview with Boris Tsilevich, Member of the Party and Parliamentary Faction, For Human Rights in a United Latvia, Riga, 13 May 1999. Personal Correspondence from Juris Sinka, *Saeima* Deputy For Fatherland and Freedom/ Latvian National Independence Party, 30 November 1999.

⁸⁴ 'EU warns Latvia against Delaying Russians' Rights', *New Europe*, 26 July–1 August 1998.

⁸⁵ 'No Amendments, No EU?', *The Baltic Times*, 16–22 July 1998.

⁸⁶ *BNS*, 2 October 1998.

⁸⁷ Interview with Nils Muižnieks, Latvian Centre for Human Rights and Ethnic Studies, Riga, 19 October 1998.

After the Cabinet of Ministers had drawn up the proposals to abolish the ‘windows’ system and allow children of non-citizens to naturalize, but before the *Saeima* voted on the proposals, the UK Prime Minister Tony Blair, in his capacity as President of the EU, wrote to Prime Minister Guntars Krasts to express the concern of the EU over the slow pace of naturalization in Latvia. Blair was careful to state that the decision to change the law lay solely with the *Saeima*. However, he noted that, “bearing in mind Latvia’s future membership of the EU, the EU considers it essential that this legislation should be in full compliance with the recommendations of the OSCE’s High Commissioner on National Minorities ... a delay in implementation of the legislation, implementation of legislation that is not in line with the High Commissioner on National Minorities’ recommendations, would not be seen as a positive development by the EU”.⁸⁸ During the lead up to the referendum vote on a visit to Latvia, Finnish President Martti Ahtisaari assured Latvia that, after this vote, the EU would not ask for further liberalization of the Citizenship Legislation.⁸⁹ The EC warmly welcomed the result of the referendum, stating that it addressed one of the concerns of the 1997 *Agenda 2000* Report on Latvian accession to the EU.⁹⁰ Latvia tried to utilise this support to gain entry to accession talks during the December 1998 European Council Meeting in Vienna. The Chairman of the Latvian European Affairs Committee stated that the referendum showed Latvia’s commitment to the EU and that, given Latvia’s economic and political progress, their accession should be supported. The European Parliament agreed to support Latvian accession to negotiations in 1998 but the European Council failed to include Latvia that year.⁹¹

After this perceived succumbing to international pressure over the Citizenship Law, the radical nationalists wanted to use the Education and Language legislation to secure the future of the Latvian nation.⁹² The EU was also critical of the draft Language Bill. In July 1999, during the debate on the Language Bill, Western observers became concerned that Latvia was returning to ‘old ways’ and that moves to introduce a restrictive Language Law would hinder Latvia’s progress towards European Union membership. Comments reported in the *Wall Street Journal*

⁸⁸ Letter to Latvian Prime Minister Guntars Krasts from UK Prime Minister Tony Blair, London, 2 June 1998.

⁸⁹ ‘Finnish President Touches on EU, Latvian Citizenship’, *The Baltic Times*, 6–12 August 1998.

⁹⁰ Note Bio Aux Bureaux Nationaux, Martine Reicherts, *Latvian Referendum on Citizenship*, Brussels, 5 October 1998.

⁹¹ Letter to Ernesto Caccavale, Member of the European Parliament, Rapporteur for Latvia, from Edvīns Inkēns, Chairman of the European Affairs Committee, *Saeima* of the Republic of Latvia, 2 November 1998.

⁹² Interview with EC Official, Riga, Latvia, 20 October 1998; Interview with Boris Tsilevich, Member of the Party and Parliamentary Faction, For Human Rights in a United Latvia, Riga, 13 May 1999.

suggested that Latvia's international image was not being improved by failing to observe Brussels' recommendations and by provoking the Russian Federation. European Commission Press Secretary Niko Wegter made it clear that the EC was very critical of the proposed Language Bill. He voiced the hope that Latvia would appreciate the seriousness with which the EC viewed the Law. Western observers, including the EU, suggested that regulation of language in the private sector would have a negative impact on the Russian-speaking minority. Concerns were also voiced about EU companies operating in Latvia with a restrictive law.⁹³ The HCNM and, following OSCE recommendations, European Union External Affairs Commissioner Hans van den Broek attempted to delay the adoption of the 1999 Language Law, as it contained excessive regulation of the use of language in the private sector. The Delegation of the EU in Riga increased the pressure by warning that the adoption of a discriminatory law would endanger the prospect of Latvia's admission to EU accession talks. The outside pressure could have led to a number of undecided *Saeima* members voting in favour of the Law as it was felt that the recommendations threatened the desire to maintain Latvia as a monolingual nation. The vote was 73 for, 16 against, and 8 abstentions. Following the vote, the HCNM, the EU, and Russia put pressure on President Vike-Freiberga to return the law to the *Saeima*.⁹⁴ The parties that voted the President into office were the same as those which approved the restrictive Language Law, so there seemed little possibility that the Bill would be sent back. However, the OSCE discussed the issue with diplomatic missions of EU countries as well as domestic actors, and other NGOs. The EU also commented on the text adopted in the Second Reading and had already pointed out the shortcomings to the EU criteria.⁹⁵ In her July 1999 decision to send the Language Bill back to the *Saeima*, President Vike-Freiberga cited pressure from international critics and described a number of the amendments as not conforming to European norms. The European Union's External Affairs Commissioner, Hans van den Broek, whose office in turn acted as an enforcer for the recommendations made by the HCNM, in conjunction with Brussels and the European Union's mission in Riga, warned repeatedly that promulgation of the Language Law, as it stood, would harm Latvia's progress towards European Union accession talks. Vike-Freiberga had commented

⁹³ *BNS*, 6 July 1999.

⁹⁴ *Jamestown Monitor*, 13 July 1999.

⁹⁵ Interview with Heidi Bottolfs, OSCE Mission to Latvia, 25 October 1999.

that the HCNM one-man critique of the Language Law did not speak for Europe. However, Günter Weiss, the Head of the EU Mission to Riga, stated that the HCNM recommendations were also those of the EU and, therefore, no separate recommendations needed to be submitted, suggesting that van der Stoel did indeed set the European demands.⁹⁶

During August 1999 discussions with the HCNM concerning the Language Law, *Saeima* Education, Culture, and Science Committee Chairman, Dzintars Abikis said that the HCNM's role should be to assist Latvia's entry into the European Union rather than to lecture to the country.⁹⁷ However, the government claimed that it was exactly these EU recommendations that were dictating the policy change and that the EU Progress Report had specifically mentioned the Language Law, so the government would do its utmost to adhere exactly to the EU stipulations.⁹⁸

On 10 December 1999, the Helsinki meeting of the European Council decided to begin accession negotiations with Latvia and the remaining second wave candidates. Prime Minister Andris Skele described it as the most important event for Latvia since Soviet/Russian troop withdrawal.

The Latvian desire to join the EU has been instrumental in the liberalization of their nationality policy. Prior to the rejection from EU accession talks in December 1997, Latvian law-makers showed great resistance to changing the legislation. Even following the 1998 decision to amend the Citizenship Law, the EU and OSCE had to maintain continuous pressure to make clear the consequences of a vote against liberalization. This was perceived by radical nationalists as interference in the internal affairs of Latvia. However, other parties used it as a tool to promote Latvian integration into the EU as the only option to ensure that Latvia maintained its new place in the West rather than returning to the influence of the CIS region. On the other hand, it has to be questioned why the EU adopted this role. It could have simply been that the EU activity was motivated by a desire to appease the Russian Federation and to maintain good EU–Russian relations by advising Latvia to amend their nationality policy. However, it must be acknowledged that EU recommendations fell far short of Russian demands.

⁹⁶ *Jamestown Monitor*, 19 July 1999.

⁹⁷ *BNS*, 24 August 1999.

⁹⁸ Interview with Aivars Groza, Advisor to the Prime Minister Andris Skele on Foreign Affairs, Riga, 21 October 1999.

The Council of Europe had a major influence on Latvian nationality policy during that country's bid to accede to the Council of Europe, which happened as the *Saeima* was considering the passage of the 1994 Latvian Law on Citizenship. The desire to join the Council of Europe acted as an incentive for the *Saeima* deputies to adopt a law in accordance with international recommendations. Once Latvia had become a member of the Council of Europe, the organization became a less effective source of persuasion in getting Latvia to liberalize legislation.

The HCNM has been the most closely involved in the detail of Latvian nationality legislation. His recommendations were eventually adopted as those to be promoted by all EU countries. When the weight of the EU was brought to bear on Latvia, the HCNM recommendations were adopted more or less in full, in time for Latvia to gain entry to EU accession talks in December 1999. Before a high profile role was taken by the EU, the OSCE channelled advice through embassies in Riga rather than issuing it directly from the OSCE as they had no authority to enforce policy and no real reward to bestow on Latvia.

The rejection of Latvia from EU accession talks in December 1997 was a major turning point in Latvian nationality legislation. Before this event, *Saeima* law-makers refused to alter existing legislation. Even after the Spring 1998 *Saeima* vote to amend the Citizenship Law, the EU and OSCE continued to remind Latvia of the need to vote for liberalization and tried to encourage them not to instigate a referendum which would further delay the acceleration of the naturalization process.

This analysis argues that Latvia's desire to join the EU has been crucial in the reform of Latvian citizenship legislation. Although it is agreed that one cannot account for the evolution in citizenship policy through a single level analysis – domestic, regional, and international bilateral contexts are all necessary aspects of an explanation – they may not fully account for the liberalization of the citizenship legislation. Indeed, the dependence of the governing coalitions on the support of radical nationalists would suggest a political need to restrict naturalization, despite protests from the Russian Federation, various Western nations, and external organizations. It was not until the exclusion from EU accession talks and a marked deterioration in relations with the Russian Federation, which was criticized by the West, that the Latvian *Saeima* and electorate amended the Citizenship Law to conform to OSCE HCNM recommendations. This may suggest that the conditionality

of the EU is a powerful force in persuading applicant countries to alter their legislation to comply with a civic conception of citizenship.

VII. Current Pressures

Despite such sweeping changes in Latvian nationality policy a number of issues remain unresolved and of concern to domestic and external actors as the country prepares for EU membership. These include the status and large number of non-citizens,⁹⁹ the application of language legislation against possible infringements of minority language rights, and the reform of the education system, including the transition to teaching in Latvian in secondary schools in 2004 in conjunction with the development of minority education provision. While EU accession is expected to make gaining Latvian citizenship more attractive, over 500,000 non-citizens remain in Latvia¹⁰⁰ and members of the international community resident in Riga have estimated that approximately 300,000 will never become citizens and having lived so long without political status lack the will or the means to meet the naturalization requirements.¹⁰¹

Non-citizens status

While there is broad agreement that the Citizenship Law complies with Latvia's international obligations the non-citizens will have an ambiguous status post-accession, in that they will not be EU citizens but will, with their internationally recognized non-citizens passports, be afforded the protection of the Latvian state, problems may occur with differing visa requirements and intra-European travel. Latvia will have to change the constitution to allow EU member state citizens resident in Latvia to vote in local elections while it is extremely unlikely that non-citizens will be afforded the same privilege as such a move would substantively alter the political constituency in many municipalities.

⁹⁹ Only 60,009 persons had naturalized and over 500,000 remained non-citizens by 28 February 2003, Statistics on Naturalization, information Centre, Naturalization Board, Riga, Latvia, 2003.

¹⁰⁰ The Board for Citizenship and Migration Affairs indicates there are 514,298 non-citizens and 1,791,318 citizens in Latvia, Facts and Statistics on Residents, Naturalization Board, Riga, 1 January 2003.

¹⁰¹ Surveys suggest many elderly non-citizens would find any language test no matter how simple an impossible barrier to pass. Holders of non-citizens passports involved in informal trade across the Russian and Belarussian

Language and education issues

The 2000 Latvian census data indicated that the number of minorities who speak no Latvian has declined from more than a million in 1989 to around 500 000.¹⁰² This is a reflection of an increased knowledge of Latvian among minorities, out-migration and deaths. The National Programme for Latvian Language Training (NPLLT) has continued although the demand for language training exceeds the NPLLT capacity and lack of Latvian language skills remains a key impediment to naturalization.¹⁰³

Education reform remains a highly contentious issue. Many minorities are campaigning for full state-funded education in minority languages, while the 1998 Education Law provides for instruction in Latvian in classes above the ninth grade¹⁰⁴ in secondary schools by 2004.¹⁰⁵ However, as many minority children finish non-Latvian language education unable to gain citizenship, enter higher education, or compete for jobs the government is faced with the challenge of ensuring minorities have an equal competitive chance in education and labour while maintaining their linguistic and cultural identity.¹⁰⁶

Protection of national minorities

The European Commission's 2002 *Regular Report on Latvia's Progress towards Accession*¹⁰⁷ stated that Latvia had met the political criteria for joining the EU. However, the government has been urged to ratify the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM) which has been ratified by all accession countries except for Latvia (but not by all existing member states); accelerate the naturalization process; ensure adequate funding for Latvian language training; and ensure equality of treatment for non-citizens and minorities.¹⁰⁸ What effect will criticism and advice from external actors have upon

borders find such operations easier and cheaper when holding non-citizens passports rather than Latvian citizenship.

¹⁰² *Press Release*, Central Statistical Bureau of Latvia, 25 January 2002.

¹⁰³ *Regular Report on Latvia's Progress Towards Accession*, European Commission, Brussels, 2002; National Programme for Latvian Language Training, www.lvavp.lv

¹⁰⁴ State-funded education in Russian will continue to be available to those under sixteen.

¹⁰⁵ *Minority Education in Latvia*, Latvian Ministry of Foreign Affairs, 11 December 2002.

¹⁰⁶ Personal correspondence from Nils Muižnieks, Minister for Special Assignments for Society Integration Affairs, Cabinet of Ministers of the Republic of Latvia, 27 March 2003.

¹⁰⁷ *Regular Report on Latvia's Progress Towards Accession*, European Commission, Brussels, 2002.

¹⁰⁸ *Regular Report on Latvia's Progress Towards Accession*, European Commission, Brussels, 2002, p. 18.

minority policies once accession has taken place? Could international actors lose all leverage in this area with the conclusion of negotiations?

The Copenhagen criteria were adopted into primary EU law in the Amsterdam Treaty with the exception of the need to show ‘respect for and protection of minorities’. This clause was left as a purely political rather than legal obligation. Given that the Commission will have no power to influence minority policies post-accession, the ‘respect for and protection of minorities’ clause risks being treated as a requirement for EU accession rather than a necessary long-term condition of membership. At the same time, however, further EU integration has the potential to stimulate continued legislative adjustments and to enhance minority protection. In Latvia the amendment and creation of domestic legislation to meet the requirements of the anti-discrimination race and employment directives could sustain the momentum of minority protection. The emphasis here is on reducing disadvantage and ensuring equal opportunities, not promoting ethnic differences, but the implementation of legislation could be a lengthy process. In addition, the first rulings against Latvia in the European Court of Human Rights¹⁰⁹ last year may increase the profile of Latvia’s international obligations compelling officials and representatives of the judiciary to respect international instruments. NGOs anticipate that this process will continue and lead to institutional reforms as well as legislative changes.¹¹⁰

Domestic political pressures

The government of Prime Minister Einars Repse, formed following the October 2002 election, is a four party coalition and remains divided over some aspects of non-citizen and minority policy. The Latvian First Party is in favour of integration, promoting naturalization, and supports the ratification of the FCNM. For Fatherland and Freedom/LNNK is opposed to this stance while the two remaining coalition members are less clear on where they stand on these issues.¹¹¹

Nevertheless, the appointment of Nils Muižnieks, the former Director of the Latvian Centre for Human Rights and Ethnic Studies, as Minister for Special

¹⁰⁹ *Chamber Judgement in the Case of Podkolzina v Latvia*, Press Release issued by the Registrar, European Court of Human Rights, 192, Strasbourg, 9 April 2002.

¹¹⁰ Personal correspondence from Ilze Brands Kehris, Director Latvian Centre for Human Rights and Ethnic Studies, 21 March 2003.

¹¹¹ Personal correspondence from Ilze Brands Kehris, Director Latvian Centre for Human Rights and Ethnic Studies, 21 March 2003.

Assignments for Society Integration Affairs is viewed as a positive signal of the priority the government is giving to integration issues and should also permit improved coordination of integration programmes. Oversight of the implementation of the Race Directive has also been transferred to the new ministry suggesting the necessary legal and policy analysis should proceed.¹¹²

VIII. International Pressure Continued?

A number of disputes are likely to arise regarding understanding of international instruments which Latvia has already signed up to and their impact upon minority issues, particularly the influence of language policy upon political participation, freedom of expression, and access to information. Language restrictions in commercial broadcasting are being challenged in the Constitutional Court.¹¹³ The *Saeima* rejected proposals for amendments abolishing these restrictions. Local broadcasters have been fined for exceeding these limits and find it difficult to compete with satellite and cable channels from Russia which do not face the same restrictions. The restrictions have limited the access of Russian speakers to news on Latvia further hindering participation in political debate and integration.¹¹⁴ The corresponding article in the Council of Europe FCNM has been cited by nationalist politicians who oppose its ratification. There have been four failed attempts at ratification in the *Saeima*. There is unlikely to be a further attempt before the September 2003 referendum on EU accession. Foreign Minister Sandra Kalniete and President Vaira Vike-Freiberga fear that ratification of the FCNM could negatively influence the outcome of the EU accession referendum.¹¹⁵

Financial inducements

Structural funds will primarily be distributed to poorer areas such as Latgale which hosts a disproportionate number of minorities. During the accession process significant funding has been available for integration and minority protection projects.

¹¹² *Human Rights in Latvia 2002*, Latvian Centre for Human Rights and Ethnic Studies, Draft Version, March 2003.

¹¹³ Current legislation stipulates that only 20 per cent of all public and 25 per cent of all commercial radio and television broadcasts can be in a language other than Latvian.

¹¹⁴ Nils Muižnieks, *Accession and the Politics of Language in Latvia*, Open Society News, Summer 2002.

¹¹⁵ Personal correspondence from Ilze Brands Kehris, Director Latvian Centre for Human Rights and Ethnic Studies, 21 March 2003.

However, these programmes have often been slow to be implemented and many will not come on stream until after accession. The complex nature of the application process for funding has also limited the utilisation of such funds by NGOs defending the rights of minority groups. Post-accession, substantially more funding will be accessible, but its vastly increased availability may greatly challenge already overstretched administrative structures. Further projects to improve the situation of minorities will also require political will and financial commitment from already very constrained budgets struggling to implement the *acquis communautaire*.¹¹⁶

IX. Conclusion

New member state governments including Latvia and their wider populations may feel that adherence to EU demands has been foisted upon them by countries unwilling to subject their own minority policies to similar scrutiny. If the expectations of the population of Latvia and other new member states are frustrated by lengthy delays in the disbursement of structural funds, budgetary curbs become too heavy, and the European Court of Justice floods the countries with judgements for failure to implement the *acquis communautaire*, issues of minority protection are likely to slip down the political agendas.

During negotiations to join the EU, there has been significant advancement in the respect for and protection of minorities in the accession countries. Once the countries become members, the Commission will no longer be able to influence policy decisions in the field of minorities and further progress in this area risks being compromised. If there is very little emphasis on policy coming from the countries themselves, it is unlikely that reform will be given the same priority it was afforded when seen as a condition of entry into the EU.¹¹⁷

The accession process has created an increased awareness of minority protection issues. However, different roles and agendas of European institutions, the varied understandings of how to define a minority within and among European countries and an ever changing political climate renders the creation of a long term and effective minorities strategy unlikely and perhaps in the interests of particular minorities undesirable. Minority protection is likely to remain at the level of a basic framework

¹¹⁶ Interviews with European Commission Officials, Brussels, 20 and 21 November 2002.

¹¹⁷ EU Accession Monitoring Programme, Open Society Institute, Minority Protection, volume I, 2002.

such as the FCNM. Of more lasting benefit could be the creation of structures which allowed the development of policy at the grassroots level tailored to specific needs of the minorities concerned.

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