

Citizens or non-citizens - discrimination against the Russian minority in the Baltics

Abstract: The article deals with the position of national minorities in the former federal states of the Soviet Union. It deals specifically with the position of the Russian minority in the Baltic countries and in Ukraine. Based on the analysis and comparison, it examines and describes the position of this minority in society and examines and evaluates the observance of its civil and minority rights. The Baltic States are all currently members of the EU and NATO. In this context, the article notes how the standards of human and minority rights protection typical of democratic states in Europe are respected in these countries, as well as the criteria and requirements for the protection of human (civic) and minority rights by the European Union. The article is based on the premise that the standards and criteria that both the European Union and the Council of Europe place for the protection of minorities in these countries in relation to the Russian minority are not met. These countries deliberately do not meet these standards, and there is no response from the EU to such a situation.

Keywords: minorities; Russia; Russian language; citizenship; discrimination; EU; NATO; the Baltics; protection of minorities.

Introduction

In his 5,000-word essay titled „On the Historical Unity of Russians and Ukrainians,” Vladimir Putin described the collapse of the Soviet Union (USSR) in 1991 as the geopolitical catastrophe of the 20th century (Stent 2022), as millions of people found themselves abroad overnight (Putin 2021). After its disintegration during this period, the USSR lost more than 25 million of its citizens, of which up to 12 million found themselves in the new Ukrainian state. Such a huge loss was suffered by Russia earlier in the 20th century after Nazi Germany invaded the Soviet Union in 1941 and unleashed a bloody war, fighting not only the regular army, but also murdering the civilian population with the help of domestic minions, resulting in the loss of at least 26 million Soviet citizens, a campaign that we can without a doubt call a crime of genocide.¹

According to Putin, a similar disaster befell Russia in 1991, when it lost 40% of its territory, its citizens suddenly became foreigners in their original home countries, and its former neighbors suddenly became their enemies. Some of these citizens found themselves in the Baltic States and later in North American Atlantic Treaty Organization

1 Present study does not reflect the view of the FSSR Editorial Board, nevertheless we publish it in order to encourage open scholarly discourse on this and similar issues. (Editor’s note.)

(NATO) and European Union (EU) countries, and some today make up the population of Ukraine, especially in its eastern parts adjacent to Russia. The protection of human and minority rights belongs to the basic values and requirements for joining the EU within the so-called Copenhagen political criteria. In the case of the Baltic States, which became EU members in 2004, it turns out that this fundamental condition and value is being neglected because it is the Russians. It is precisely in connection with them that the concept of *non-citizen* appears, which refers to residents of the Baltic states with former Soviet citizenship, claiming Russian nationality, who overnight became foreigners in their own country, only because their ancestors immigrated there after 1940 and were not ethnic Estonians or Latvians.²

Using analysis and comparison, we describe the status and observance of human, civil, and minority rights of this minority in the given states, based on the premise that the given states deliberately do not observe these rights and the Council of Europe, as well as the EU, do not strongly address this problem, to the point of overlooking it. In the long term, such a position is untenable; it causes and often brings insurmountable problems to the individual in their personal, professional, economic, and political lives. It can become a detonator in mutual neighborly relations, since one of the basic security interests of any state is also the protection and support of minorities reporting to it.

The position of the Russian minority in the Baltics

In Europe, but also elsewhere in the world, one cannot find a state that is ethnically homogeneous. The Baltic States, Ukraine, Russia, and Eastern Europe are no exception. From its beginnings, Russia, and subsequently the USSR, was a multinational agglomeration dominated by the Russian element. After its disintegration, the originally dominant nation suddenly became a minority (in the sense of loss of power and influence). At the time of the census (i.e. as of December 31, 2021³), 1,331,824 inhabitants lived permanently in Estonia, of which ethnic Estonians made up 69.4%, Russians 25.1%, Ukrainians 1.7%, Belarusians 0.9%, Finns 0.6%, and others 1.7%.⁴ Spatially, the Russian minority is distributed in the territories in the east, in the capital Tallinn, and in

2 If we were to apply broader theoretical approach to our analysis, we would base it on works that deal with the image of the enemy in society and how it is strengthened in the majority society in relation to minorities in a variety of crisis situations, not forgetting how language rights are instrumentalised in such cases. The author of this study has dealt with this issue in the past. In the present case, however, we are not presenting a purely theoretical article (although certain theoretical approaches are stated in it) but an analysis of the real and concrete situation. (Author's note.)

3 Exact numbers are still not available; the data are drawn from data published so far.

4 RAHALOENDUS.EE. 2022 [Online]. [cit. 2022.06.12]. (<https://rahvaloendus.ee/et/uudised/rahvaloendus-est-rihaavar-ja-estlaste-arv-kasvanud>)

large cities where industry is concentrated. In Latvia, the last population census was held in 2011, according to which it has 2,067,887 inhabitants (2018 estimates indicate a decrease to 1,925,800). About 62.1% are ethnic Latvians, 26.9% Russians, 3.3% Belarusians, 2.2% Ukrainians and Poles, 1.2% Lithuanians, and 2.1% others.⁵ About 70% of the population lives in cities and 30% in the countryside. Latvia is struggling with significant population decline, caused by low birth rates and high emigration. In some cities, such as the capital Riga, Daugavpils, and Rēzekne, Latvians are not even the majority.⁶ Lithuania has approximately 2,795,680 inhabitants.⁷ More than 83% are ethnic Lithuanian, while Poles make up 6.7% (approx. 200,000) and Russians 6.3% (approx. 175,000). Poles live mainly in the Vilnius area. Russians are most concentrated in the regions of Vilnius and Klaipėda. The Belarusian population lives in the border areas, constituting about 1.2% of the whole population.⁸

It is widely reported that Estonia and Latvia have the largest Russian minorities in Europe. Even Latvia boasts the largest number of members of national minorities in the EU. All three countries have the most complicated relationship with their Russian minorities, with the biggest issue being the citizenship status of ethnic Russians, as they have been stripped of citizenship as „descendants of the occupiers,”⁹ and the use of Russian as an official and mother tongue. During the duration of the USSR, Russification took place in all three countries. Russian was the official language, it became the language of communication in all the union states of the USSR, and it was taught in schools. In Estonia, for example, the result was that only a negligible part of Estonians did not learn Russian, while every third Russian immigrant learned Estonian.

The restoration of Estonia's independence led to an escalation of inter-ethnic conflict, as the new government was the first to adopt an anti-Russian course. First, the Citizenship Act was passed, which stipulated that only residents of Estonian nationality

5 CSB.GOV.LV. 2011. Statistikas Temas. [Online]. [cit. 2022.06.12]. (<https://web.archive.org/web/20120129110714/http://www.csb.gov.lv/statistikas-temas/2011gada-tautas-skaitisana-galvenie-raditaji-33608.html>)

6 At least, according to the website of the Latvian Statistical Office. More recent information could not be found; the data on various websites differ.

7 EUROPA.EU. 2022. Key facts and figures. [Online]. [cit. 2022.06.12]. (https://european-union.europa.eu/principles-countries-history/key-facts-and-figures/life-eu_sk)

8 CENSUS 2011. Population by ethnicity and municipality [Online]. [cit. 2022.06.28] (from:http://www.osp.stat.gov.lt/documents/10180/217110/Population_by_ethnicity_municipality.xls)

9 This is how the politicians of the individual Baltic countries refer to the Russian-speaking population, but such a designation also appears in the documents of the European Commission! It is comparable to if Slovak politicians and official EU documents were to refer to members of the Hungarian minority as descendants of the oppressors of the Slovak nation or German-speaking citizens as descendants of Nazi occupiers.

who were citizens or descendants of interwar Estonia could be citizens of Estonia. Subsequently, a new language law was passed in 1993, which stipulated that all positions in the public and private sectors must be filled only by people who can communicate in Estonian. State citizenship could only be obtained through naturalization, the prerequisite of which was passing the Estonian language exams, which were both difficult and—for the unemployed—very expensive.

It was only aspirations for EU membership and the need to meet all the Copenhagen criteria that led the Estonian government to soften its approach to national minorities. Publicly, the assimilationist-dominant approach of the majority ethnic group towards minorities was condemned and replaced by a narrative of equal integration, especially of the Russian minority, into Estonian statehood. Shortly after Estonia's accession to the EU, the third report of the European Commission against Racism and Intolerance of the Council of Europe (ECRI)¹⁰ dated February 21, 2006, stated that there was a certain shift in minority policy in Estonia and the number of people who obtained Estonian citizenship increased,¹¹ but that there was still a high proportion of Russians, or „persons with indeterminate citizenship,” who were unable to obtain citizenship due to the ongoing difficulty of the tests.¹² The report also criticized Estonia for not implementing a unified policy to help bring the Estonian-speaking community closer to Russian-speaking community.¹³ Similar findings and recommendations, strongly calling for the amendment of the Equal Treatment Act and other related laws in order to

10 The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body that specializes in issues related to the fight against racism, discrimination (based on „race,” ethnic/national origin, color, nationality, religion, language, sexual orientation, gender identity, and sexual characteristics), xenophobia, anti-Semitism, and intolerance in Europe, and prepares reports and issues recommendations to member states. It was founded at the first summit of the heads of state and government of the member states of the Council of Europe in 1993 and began to function in 1994. It consists of 47 members appointed on the basis of their independence, impartiality, moral authority, and expertise in solving issues of racism, discrimination, xenophobia, anti-Semitism, and intolerance. Each member state of the Council of Europe appoints one ECRI member. More at: (<https://www.coe.int/en/web/european-commission-against-racism-and-intolerance>)

11 In the years 2016–2020, Estonian citizenship was granted to 4,957 people through naturalization. In 2020, citizenship was most granted to persons with undetermined citizenship, followed by citizens of the Russian Federation and Ukraine. See: Overview of migration statistics 2016–2020. p. 22-23. [Online] [cit. 2022.06.29]. (<https://issuu.com/settleinestonia/docs/randestatistika-eng-issue/24?ff>)

12 The ECRI report of June 9, 2022, on page 27 states that between 2014 and 2021 the number of „persons with undetermined citizenship” living in Estonia with a valid residence permit decreased from 91,288 to 67,898, while a significant decrease occurred in children under 15 (from 1,086 to 74). (<https://rm.coe.int/6th-ecri-report-on-estonia/1680a6d5e6>)

13 ECRI. 2006. Third report on Estonia. Adopted on June 24, 2005. Strasbourg February 21, 2006 [Online] [cit. 2022.06.29]. (<https://rm.coe.int/third-report-on-estonia/16808b56eb>)

ensure the general availability and effectiveness of anti-discrimination rules, appear in the latest (i.e., the sixth) ECRI report on Estonia, published on June 9, 2022, which also states that the Russian-speaking population is still characterized by high social exclusion.¹⁴

Latvia, which has the highest proportion of Russians¹⁵ among the Baltic countries, took a similar approach towards the Russian minority when it introduced a language test to obtain citizenship, which many local Russians could not pass. Of the approximately 700,000 Russians, more than half still do not have Latvian citizenship. They cannot vote, they suffer as foreigners with a residence permit, and the state puts pressure on them to naturalize or leave the country. They have the status of so-called *non-citizens*¹⁶ and are descendants of Russians who immigrated to Latvia after the Second World War. Their children, born in Latvia after 1991, do not acquire citizenship automatically, but can acquire it according to the so-called simplified registration of citizenship upon the birth of a *non-citizen* child. According to it, the application for Latvian citizenship of such a child can be submitted by only one of their parents instead of both, which subsequently led to a decrease in newly born *non-citizens* to 52 cases in 2016 and 23 in 2017. A legislative initiative was launched by the president of Latvia in 2017 that would have automatically granted Latvian citizenship at the birth of children of *non-citizens*, but it failed due to lack of sufficient political support.

The question of automatically granting citizenship to *non-citizens* has a principled value for the Russian minority, but even so, Latvia managed to reduce the number of

14 ECRI. 2022. ECRI report on Estonia (sixth monitoring cycle). Adopted on March 29, 2022. Published on June 9, 2022. [Online] [cit. 2022.06.29]. (<https://rm.coe.int/6th-ecri-report-on-estonia/1680a6d5e6>)

15 In proportion to the total population, the Russian-speaking population of Latvia makes up about the same proportion as the Francophone population of Walloons in Belgium.

16 The term *non-citizen* has no basis in international law, and thus there is no general definition. This designation usually refers to a person who has no legal right or permission to stay in the country and may be deported. In this sense, it is actually an illegally staying foreigner, a migrant without relevant documents. *Non-citizens* cannot vote or get a position in the state administration. In the Baltics, ethnic Russians are referred to as such, representing a special category of persons, citizens of the former USSR, who had, for example, permanent residence in Latvia on July 1, 1991, and do not have the citizenship of any other country. The term *non-citizen* in this case does not include foreign nationals, and although they do not have the same rights as citizens, the United Nations High Commissioner for Refugees (UNHCR) states that *non-citizens* in this specific case have an *ex lege* right of residence and a set of rights and obligations that generally go beyond the framework of rights under the 1954 Convention Relating to the Status of Stateless Persons, including protection against expulsion. However, according to the high commissioner, this convention does not apply to *non-citizens* defined in this way, in accordance with its Article 1.2 (ii). In Estonia, the term „person of undetermined citizenship” is used to refer to *non-citizens*.

non-citizens from 326,735 persons in 2011, which represented 14.6% of the population, to 222,847 in 2017, which is 11.4% population of the country.¹⁷ This is partly due to demographic factors and mortality, as approximately 40% of these persons are 60 and over, and partly due to the emigration of these people, which has led to a decrease in the number of naturalized, which has stabilized at approximately 1,000 persons per year. Latvian authorities report that 98% of *non-citizen* applicants pass the naturalization exams, but not always on the first try.¹⁸ As for the Russian language, there was a proposal to give Russian the status of an official language. However, it was rejected in a referendum in 2012.¹⁹ Subsequently, the Russian language began to be restricted in education, and from 2020, according to the plans of the Latvian government, all secondary schools are to be taught exclusively in Latvian.²⁰

Shortly after Latvia's accession to the EU, ECRI issued its third assessment report on the state of the fight against racism and intolerance in the country, where it states that although some progress has been made in the fight against racism through cosmetic changes in criminal or labor law, a number of recommendations related to the status minorities and racially motivated attacks on them was not implemented at all or only partially implemented. The commission noted the increasing number of attacks on minorities, stating that it could not consider the response from the authorities, including the criminal justice system, to be adequate. It also stated that the racist discourse (hate speech) of politicians and the media towards immigrants, refugees, religious minorities, such as Muslims, Jews, Roma, and especially the Russian-speaking minority, remains a problem. The commission also noted that the naturalization process had not progressed

17 A European Commission document "Country report. Non-discrimination. Latvia" from 2020 lists the number of non-citizens at 209,007, which is 10.10% of the population. (<https://www.equalitylaw.eu/downloads/5511-latvia-country-report-non-discrimination-2021-1-57-mb>); (<https://www.pmlp.gov.lv/lv/media/2889/download>)

18 ECRI. 2019. ECRI report on Latvia (fifth monitoring cycle). Adopted on 4 December 2018. Published on 5 March 2019 [Online] [cit. 2022.06.29]. (<https://rm.coe.int/fifth-report-on-latvia/1680934a9f>)

19 Lotyšši odmítli ruštinu jako druhý oficiální jazyk. Aktuálně.cz, ČTK 18.02.2012 at 23:15. [Online] [cit. 2022.06.20]. (<https://zpravy.aktualne.cz/zahranici/lotysi-odmitli-rustinu-jako-druhy-oficialni-jazyk/r~i;article:733757/>); „Lotyšsko se obává ruskojazyčných obyvatel jako rizikového faktoru“. Česká televize. 5. dubna 2015. [Online] [cit. 2022.06.20]. (<https://ct24.ceskatelevize.cz/svet/1517834-lotyssko-se-obava-ruskojazycnych-obyvatel-jako-rizikoveho-faktoru>)

20 Latvia pushes majority language in schools, leaving parents miffed. Deutsche Welle. 8. září 2018. [Online] [cit. 2022.06.20]. (<https://www.dw.com/en/latvia-pushes-majority-language-in-schools-leaving-parents-miffed/a-45385830>); Moscow threatens sanctions against Latvia over removal of Russian from secondary schools. The Daily Telegraph. 3.4.2018. [Online] [cit. 2022.06.20]. (<https://www.telegraph.co.uk/news/2018/04/03/moscow-threatens-sanctions-against-latvia-removal-russian-secondary/>)

and is slow, and that a number of problems persist that prevent the full integration of the Russian-speaking population into Latvian society, including language-based discrimination in access to employment and barriers to participation in the public and political life of Latvia. In this context, the commission urged in the report that the Latvian authorities allow *non-citizens* to vote in local elections and take all necessary measures to ensure the participation of ethnic minorities in the political process, in politically elected bodies, and in the public service. The commission placed particular emphasis on the situation of the Russian-speaking population, with whose representatives the authorities were supposed to work on creating conditions for constructive cooperation.²¹

For now, the latest (i.e., the fifth) ECRI report from 2018 reiterates its recommendation that Latvia ratify Protocol no. 12 of the European Convention on Human Rights; recommends that Latvian authorities ensure automatic recognition of Latvian citizenship for children born to non-citizens and that Latvian authorities harmonize their civil and administrative law with General Political Recommendation no. 7 in terms of the adoption of comprehensive anti-discrimination legislation; and introduces an explicit obligation for public authorities to promote equality and prevent discrimination. For non-citizens, the report recommends securing a sufficient number of places in free Latvian language courses in preparation for their naturalization exams.²²

The Russian minority in Lithuania has the least complicated relations. Unlike Estonia and Latvia, whose decision created a new kind of people—the so-called non-citizens—Lithuania decided on a different path and adopted the so-called zero solution (i.e., universal citizenship for all its inhabitants who lived on its territory at the time of gaining independence). However, Lithuanian became the official language and the Latin alphabet was introduced in the written text, but the Russian minority also demands Russian and the written text in Cyrillic. Lithuanians consider the Russian minority a burden and do not accept its existence. The situation is similar for the Polish minority in Lithuania, as the authorities administratively limit Polish education and the use of Polish. Poles cannot even use their Polish surnames, and all names and inscriptions are exclusively in Lithuanian. There are also problems with restitution of Poles' property. This led Polish President Lech Wałęsa in 2011 to refuse to receive Lithuania's highest state award, saying he was only willing to receive it after the status of the Polish minority in Lithuania improved.²³

21 ECRI. 2008. Third report on Latvia. Adopted on June 29, 2007. Strasbourg February 12, 2008. [Online] [cit. 2022.06.29]. (<https://rm.coe.int/third-report-on-latvia/16808b58b3>)

22 ECRI. 2019. ECRI report on Latvia (fifth monitoring cycle). Adopted on December 4, 2018. Published on March 5, 2019 [Online] [cit. 2022.06.29]. (<https://rm.coe.int/fifth-report-on-latvia/1680934a9f>)

23 Porušování lidských práv je třeba odsoudit kdekoli ve světě. Také v Litvě". Vaše věc. 25.05.2012. [Online] (<http://vasevec.parlamentnilisty.cz/vip-blogy/porusovani-lidskych-prav-je-treba-odsoudit-kdekoli-ve-svete-take-v-litve>)

ECRI's latest, fifth report on Lithuania, adopted on 18 March 2016 and published on 7 June 2016, recommends that the Lithuanian authorities take „urgent” measures to ensure that the reduction and concentration of Lithuanian language teaching in classes of national minorities, especially Polish and Russian, is taken into account in the unified language test. The report further recommends to bring Lithuanian civil and administrative law into line with its General Policy Recommendation no. 7 so as to include references to equal treatment in relation to nationality, skin colour, gender identity, the observance of non-discrimination and that these laws content the duty to amend or abolish discriminatory provisions and the duty of public authorities to promote equality and prevent discrimination. It also recommends the Lithuanian authorities to ensure that suppliers or partners - with whom they work - observe the principles of non-discrimination as well as the obligation to amend or abolish discriminatory provisions in existing contracts or agreements.

In addition, ECRI recommends introducing legislation to suppress public funding of organizations, including political parties, that promote racism and to establish options for their dissolution, and it reiterates its recommendation to Lithuania to sign and ratify Protocol no. 12 to the European Convention on Human Rights. In the footnotes, the report states that there is currently no law on national minorities in Lithuania, as the previous law was only valid until 2010 and the Seimas has not yet adopted a new law.²⁴

A huge problem, which is reflected in all ECRI reports of the Council of Europe from the last period, is the so-called hate speech against minorities, racist discourse of politicians and the media, and support for the glorification of the fascist past of these states,²⁵ which is perceived extremely sensitively by the Russian minority, as well as by Russia itself, as a provocation. A similar problem is the demolition of Soviet monuments dedicated to the heroes of the Red Army who fell in the fight against fascism during the Second World War.²⁶

Since all three countries aspired to membership in the EU and the basic values of this grouping according to the founding treaties include the protection of human dignity,

24 ECRI. 2016. ECRI report on Lithuania (fifth monitoring cycle). Adopted on March 18, 2016. Published on June 7, 2016. [Online] [cit. 2022.06.29]. (<https://rm.coe.int/fifth-report-on-lithuania/16808b587b>)

25 For example, in Latvia March 16—the so-called Legionnaires' Day (Latvian Waffen SS holiday)—was an official national holiday between years 1998 and 2000. In 2000, after great international criticism, this day was removed from the list of official national holidays, but many Latvian politicians continue to celebrate March 16 publicly and shout anti-Russian slogans under Waffen SS symbols.

26 These days [mid-2022], Latvia has taken the decision to demolish almost 300 such monuments.

basic human and civil rights, minority rights, and the rule of law, the approach and treatment of these countries with their own minorities had to be evaluated by the European Commission, which monitored the fulfilment of the Copenhagen access criteria. From this period, for example, the decision of the European Council from March 1998 can be mentioned, in which among the political criteria conditioning the admission of Estonia to the EU, the requirement „to take measures to facilitate the naturalization process and better integration of non-citizens, including stateless children” can be read (Krejčí 2005). This requirement was included among the so-called short-term criteria with a deadline for fulfilment in the same year. In December 1999, among the political criteria in the resolution of the European Council, the demand for „the adoption of specific measures aimed at the integration of non-citizens, including language teaching and the provision of the necessary financial support” appears again with a deadline of 2000. To date, these requirements have not been met by Estonia and Latvia. *Non-citizens* of these countries are therefore not even citizens of the EU, since the so-called European citizenship is tied to the citizenship of a specific member state. The situation was not resolved even by the individual amendments to the founding treaties of the EU from 2009 (Lisbon Treaty), since they are based on the assumption that an EU citizen has a legal residence in a member state, which Estonia, but especially Latvia, tried to prevent.²⁷ This led to the fact that several hundreds of thousands of people—*non-citizens* without basic civil and political rights—still live on the territory of the EU.

27 In May 2005, Latvia sought to remove *non-citizens* from the jurisdiction of the Council of Europe, and in June 2005 and subsequently in January 2007, the European Court of Human Rights ruled in the case of Sysojev and others against Latvia. The plaintiffs Svetlana Sysojev (b. 1949), her husband Arkady Sysojev (b. 1946), and daughter Oxana (b. 1978) appealed to the ECtHR because the Latvian authorities denied them permanent residence status. Sysojev moved to Latvia in 1968, his wife came to him in 1969, and Oxana was born in Latvia. After the collapse of the USSR, they lost their nationality, and because they could not prove that they did not have a permanent residence in another country, the authorities denied them even the status of *non-citizens*. In 1996, a Latvian court ordered that the names of all three be deleted from the permanent residence register, followed by a bureaucratic scramble for *non-citizen* permanent residence passports and residence permits, as well as interrogation by the secret police. In 2000, the authorities threatened the family that they could be deported from Latvia. The ECtHR ruled that Latvia violated Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms—the right to respect for private and family life—and awarded compensation of 5,000 euros to each of the plaintiffs, to be paid by Latvia. This is case 60654/00 of 16 June 2005. CASE OF SISOJEVA AND OTHERS v. LATVIA. (Application no. 60654/00) STRASBOURG 15 January 2007. (<https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22case%2060654/00%22%2C%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2C%22CHAMBER%22%2C%22itemid%22:%5B%22001-79022%22%5D%7D>); CASE OF SISOJEVA AND OTHERS v. LATVIA (Application no. 60654/00). JUDGMENT. STRASBOURG 16 June 2005. (<https://www.refworld.org/pdfid/52ea6819a.pdf>)

The latest reports on the progress and protection of human rights in the EU member states in the case of Estonia state the gap between the Estonian and Russian-speaking communities that persists in education, the labor market, the environment, and media consumption.²⁸ In the case of Latvia, the biggest concern of the European Commission in 2010 was the group of people who arrived or were born in Latvia „during the Soviet occupation,” as well as the fact that naturalization tests did not actually facilitate the integration of these people into society.²⁹ In 2021, it only states that there are still non-citizens in Latvia.³⁰

Similar conclusions were reached by OSCE High Commissioner for National Minorities Lamberto Zannier, who, in connection with Estonia, stated the persistent concerns of the Russian-speaking community about the future of education in the Russian language and called on the relevant authorities to take into account regional specificities with regard to the ethnic composition of society and create opportunities that the representatives of minorities can participate in decision-making process on future policies in the given area. In the case of Latvia, he pointed out again that 10.7% of persons in the country still have a *non-citizen* status and are thus without civil and political rights. He also criticized the reform of the school system, which deviated from the previously well-functioning model of bilingual education, recommended by the OSCE high commissioner, which of course raised concerns among national minorities—especially the Russian one. He recommended continuing the implementation of the reform so that it is inclusive and takes into account the concerns of national minorities who will be affected, and so that it does not raise concerns that it is disproportionately punishing them or disproportionately influencing them. Regarding language policy, he emphasized a pragmatic approach, following a balance between the promotion of the state language and the protection of minority languages through positive means and incentives, rather than repressive measures, as these can weaken any efforts to perceive the state language as an instrument of integration.³¹

28 EUROPEAN COMMISSION. 2019. Human rights in Estonia 2020 - national minorities and integration policy. [Online] [cit. 2022.06.29]. (https://ec.europa.eu/migrant-integration/library-document/human-rights-estonia-2020-national-minorities-and-integration-policy_en)

29 EUROPEAN COMMISSION. 2010. Country Report Latvia: Integration and Naturalisation tests, the new way to European citizenship. [Online] [cit. 2022.06.29]. (https://ec.europa.eu/migrant-integration/library-document/country-report-latvia-integration-and-naturalisation-tests-new-way-european_en)

30 EUROPEAN COMMISSION. 2021. Latvia - Country report non-discrimination 2021. [Online] [cit. 2022.06.29]. (<https://www.equalitylaw.eu/downloads/5511-latvia-country-report-non-discrimination-2021-1-57-mb>)

31 OSCE. 2019. Address by Lamberto Zannier OSCE High Commissioner on National Minorities to the 1229th Plenary meeting of the OSCE Permanent Council. Vienna, Austria. May 23, 2019 [Online]. [cit. 2022.06.12]. (<https://www.osce.org/files/f/documents/9/b/420572.pdf>)

In short, it can be said that several hundreds of thousands of stateless people live in the Baltics even after 2020, officially registered as *non-citizens*, pejoratively referred to as *the descendants of the occupiers*. On a daily basis, they encounter obstacles not only when using the mother tongue of the national minority, but also when trying to obtain citizenship by a person living in the given country since birth. Moreover, these obstructions are mainly reserved for members of the Russian minority. Latvia and Lithuania have not yet ratified Protocol No. 12 to the European Convention on Human Rights of the Council of Europe, claiming that it concerns them only minimally, despite the fact that they are regularly called for this ratification by European international human rights organizations. Lithuania does not even have a law on the protection of national minorities.³²

Despite this, the EU has never activated Article 7 of the Treaty on European Union against the Baltic states for threatening the EU's values, listed in Article 2 of the same Treaty, which the Union protects and on which it is based: „The Union is based on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to member states in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”³³

Cases of discrimination in the Baltics

The usual rhetoric of the EU is based on the traditional values mentioned above and is based on democracy, but according to Fábry or Yiftachel and Ghanem (Fábry 2015; Yiftachel and Ghanem 2004), the Baltic states have decided to follow a different path. After gaining independence in 1991, instead of the declared principles of democracy, they introduced the principles of the so-called ethnocracy,³⁴ which is most vividly illus-

32 It follows from the report of the UN Committee on the Elimination of Racial Discrimination that Latvia has not adopted such a law either. See: Combined ninth and tenth periodic reports submitted by Lithuania under Article 9 of the Convention, due in 2018. CERD/C/LTU/9-10. [Online] [cit. 2022.06.29]. (https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/LTU/9-10&Lang=en)

33 Article 2 of the Treaty on European Union. [Online] [cit. 2022.06.29]. (http://www.ucps.sk/Lisabonska_zmluva_Zmluva_o_Europskej_unii)

34 Ethnocracy is a political regime in which the state apparatus is controlled by a dominant ethnic group. Ethnocratic regimes use a democratic facade to cover a more differentiated ethnic structure in which ethnicity (or race or religion)—not citizenship—is the key to securing power and resources. Political parties are defined primarily along ethno-religious lines, key state positions are allocated according to ethnic affiliation, and educational and other institutions are officially segmented along ethnic lines. An ethnocratic society facilitates the ethnicization of the state by the dominant group through the expansion of control, accompanied by conflicts with

trated by the creation of a group of non-citizens from its own residents of Russian nationality. Estonia and Latvia, in particular, began to practice a policy of revanchism and created a permanently disaffected population from the local Russians, which they fear today. They talk about this population as a threat and use it to justify their membership to NATO (Tetrault-Farber 2015).

Ubiquitous nationalist and anti-Russian rhetoric, so-called hate speech, resonates today more than ever. It is heard both by members of the majority nation and by politicians. Of the aggressive excesses of politicians, we can recall the statements of the Minister of Defence of Estonia U. Reinsal, who in January 2014 called the possibility that Estonia would be represented in the European Parliament by deputies of Russian nationality a threat and declared that the European Parliament must not turn into a forum where Estonian language policy will be attacked.³⁵

Latvian politicians are not far behind either. As one of the initiators of the Latvian school law, I. Druviete said that Russian children should speak Latvian during games; or Member of the Parliament, K. Karniš called for the direct assimilation of Russian children in Latvia. The Latvian Minister of Education, K. Šadurskis even compared the Latvian school law to the situation in Alsace after the World War II, where German schools switched to the French language in 1945. Regarding the Ukrainian school law, Šadurskis said: „I have read the Ukrainian law and it seems very moderate to me...”³⁶ The mentioned statements can be described as even milder. Aggressive hate speech contains a dehumanizing vocabulary, assigning many derogatory adjectives and names to Russians. These days, threatening signs appear on many houses of Russian-speaking residents of Latvia: „Krieviem jāmirst” (Russians must die).³⁷ Russian-language media is also restricted, and media broadcasts directly from Russia are also banned.

The tension between the ethnic groups is exacerbated by the repeated marches of Waffen SS veterans in Latvia or the glorification of the 20th SS Grenadier Division in Estonia, about which the EU and the Western media, including the Slovak media,

minorities or neighboring states. Other ethnic groups are systematically discriminated against and may face repression or violations of their human rights by state power. Ethnocracy can also be a political regime established on the basis of qualified civil rights, with ethnicity (defined in terms of race, origin, religion, or language) as a distinguishing principle. In general, the *raison d'être* of an ethnocratic government is to secure the most important instruments of state power in the hands of a particular ethnic group. For details see Howard 2012.

35 Военного министра Эстонии обвинили в разжигании ненависти к русским. Rosbalt.ru. 19 января 2014. [Online] [cit. 2022.06.29]. (<https://www.rosbalt.ru/world/2014/01/19/1222792.html>)

36 Министр образования Латвии: Шкóльная реформа не оставит почвы для „русского мира”. 2 октября 2018. [Online] [cit. 2022.06.29]. (<https://www.eurointegration.com.ua/rus/interview/2018/10/2/7087457/>)

37 T.me/ruspanorama.

remain tactfully silent. Until 2015, these „celebrations” were officially attended by the highest representatives of the state, members of standard political parties, who are also present in the European Parliament. Despite this, European politicians did not refuse to meet with these politicians, did not exclude them from their ranks, and did not activate the aforementioned Article 7 due to the threat to the fundamental rights of the EU. European Union Member States even hypocritically abstain every year from voting on the UN resolution condemning the glorification of Nazism, directed against the celebration of the Waffen SS in the Baltics, even though Latvia and Estonia are not directly mentioned in it.³⁸ On the other hand, the celebrations of the holidays of national minorities, especially the Day of the Victory of the Red Army over Fascism on May 9, are overlooked and obstructed by state officials.

However, the Baltic ethnocracy is the most noticeable in the area of the already-mentioned state citizenship, from which the vast majority of persons of Russian nationality were excluded by legislation in Estonia and Latvia after 1991. In all three Baltic States, citizenship law is based on the principle of *jus sanguinis* (i.e., the right of blood). It is the principle that citizenship is determined or acquired on the basis of the nationality or ethnicity of one or both parents. Children can be citizens of a state at birth if one or both of their parents are citizens of that state by blood. It can also refer to national identities of ethnic, cultural, or other origins. From this point of view, this step can be evaluated as a clear attempt to exclude the Russian minority from political life, by preventing its access to elected positions or a referendum. This made it impossible for the Russian minority to co-decide on the future of the country. It was in Estonia and Latvia that there was a real possibility that local Russians would influence the vote on fundamental issues such as joining NATO or the EU or drastic economic reforms, precisely because of the size of this group (around 30% of the population). Therefore, it was necessary to create from this group the so-called *Apolitās* (i.e., people without state citizenship) and remove them from the political competition as possible opponents of the current representatives of state power (Fábry 2015).

In order to legitimize their actions against the Russian minority, the representatives of Estonia and Latvia created the fiction of the non-existence of the Soviet legal order³⁹ and granted citizenship only to those who were citizens in 1940 and their descendants.⁴⁰

38 UN Resolution A/RES/69/160 Combating glorification of Nazism, neo-Nazism, and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia, and related intolerance: resolution / adopted by the General Assembly. 2014.12.18. [Online] [cit. 2022.06.29]. (<https://digitallibrary.un.org/record/820132>)

39 The „non-existence of the Soviet legal system,” unlike citizenship, was no longer an obstacle to the recognition of many other legal relationships that arose during the existence of the USSR, and on which the new legal systems followed. Even the Supreme Soviet of the Estonian SSR and the Supreme Soviet of the Latvian SSR, which restored the independence of the Baltic states, were based on the Soviet legal order.

Discriminatory legislation affected the majority of Russians who came to the Baltics after 1940 and their descendants. *Apolitas* or *non-citizens* can obtain citizenship by naturalization after meeting complex criteria, the biggest problem of which has proven to be the language test at the level of complete primary education (Fábry 2015).

Social and economic discrimination go hand in hand with political discrimination. After 1991, many Russians lost their jobs in education, state administration, and local government. Russian *non-citizens* could not perform several professions from judges and notaries to firefighters. They could not participate in privatization and were also disadvantaged when employed in state enterprises. During the implementation of painful economic reforms, it was precisely the non-citizens who felt their harsh effects the most, but since they did not have the right to vote, they could not influence these reforms and decide on them in the parliamentary elections. Therefore, many *non-citizens* either „voluntarily” emigrated to Russia or other countries, several „assimilated,” and the older generation died out in the meantime. However, despite pressure for denationalization, the majority of Russians did not change their nationality, even after passing a language test and obtaining citizenship.

Another attack on the Russian minority in Latvia, which can serve as an example of discrimination and enforcement of ethnocracy, is the adoption of an amendment to the Law on Education in 2018, which was also approved by the Latvian Constitutional Court at the end of 2019.⁴¹ The purpose of this amendment is to further restrict the use of the Russian language in Latvian schools, which in practice means the complete liquidation of secondary schools with the Russian language of instruction.⁴² This situation concerns more than one-third of the country's population, who consider Russian their mother tongue. Efforts to suppress the Russian language are not new in Latvia. The first restrictions appeared already in the 1990s, and in 2004, a 60:40 subject teaching ratio for the Latvian language was introduced in Russian secondary schools. However,

40 In Latvia, the Citizenship Act still distinguished between groups of those who were not citizens of Latvia in 1940. Latvians and even Livonians who did not have Latvian citizenship in 1940 (and their descendants) did not have to fulfil as many conditions as Russians in the new situation. If they did not have another state citizenship, all they had to do was register. See: Citizenship Law. Riga, August 11, 1994. [Online] [cit. 2022.06.29]. (<https://likumi.lv/ta/en/id/57512-citizenship-law>)

41 Judgement on Behalf of the Republic of Latvia in Riga on April 23, 2019-06-18 in Case No.2018-12-01. [Online] [cit. 2022.06.29]. (https://www.satv.tiesa.gov.lv/web/viewer.html?file=%2Fwp-content%2Fuploads%2F2018%2F07%2F2018-12-01-12.-Saeimas-dep_latvie%C5%A1u-valoda-valsts-skol%C4%81s_ENG.pdf)

42 В Латвии утвердили поправки в закон об образовании без русского языка. Глава Латвии утвердил поправки в закон об образовании. 02.04.2018 at 21:15 [Online] [cit. 2022.07.04]. (<https://rg.ru/2018/04/02/v-latvii-utverdili-popravki-v-zakon-ob-obrazovanii-bez-russkogo-iazyka.html>)

this new legislation stipulated that at the first stage (grades 1–7) the share of teaching in the Latvian language should be at least 50%, at the second stage of basic education (grades 7–9) at least 80%, and at the third stage (10th grade and above; i.e., for secondary schools), it established the entire education in the Latvian language. There is only one school subject, i.e. subject Russian language and literature as a foreign language where the Lithuanian school law allows the so-called ethnic-cultural teaching, which means teaching entirely in Russian language. For the Russian-speaking minority, this means the complete liquidation of a number of bilingual secondary schools that taught 40% of subjects in the language of the national minority. It affects 145 bilingual schools with the Russian language, one school with Belarusian, and one with Ukrainian language. These schools have survived to this day, although they have been exposed to various forms of disadvantages, especially financial ones. In addition, this law also prohibits Russian in private schools. It is applied at lower levels from 2019 and at secondary schools from 2020 (Fábry 2020).

The reason why we can talk about this amendment as being openly discriminatory is that it is aimed solely at the discrimination of the Russian language. This law does not apply to official languages of the EU. Theoretically, this means that it is possible to open a secondary school in Latvia that will educate bilingually in Slovak, but not in Russian. That is, Latvian children have the right to bilingual education, but depending on whether or not the given language is declared by Brussels to be an official language of the EU. Therefore, neither German nor English bilingual secondary schools had to apply this law and its rules, and they continue teaching without changes.

A wave of resistance arose in Latvia against this law in the form of protest rallies, boycotts, and resistance actions. The government uses various intimidation methods against such protests, from accusations of Russian propaganda and discrediting, to limiting basic rights and freedoms in the form of restricting the right to assembly. In addition, it often arbitrarily changes the routes of pre-announced protests and the locations of rallies at the last minute. The most famous crackdown on human rights activists is the case of A. Gaponenko,⁴³ who was detained by law enforcement authorities just after the adoption of the new law in April 2018 and held in custody for 4 months. The formal reason for the detention was a text on the Internet. The criminal

43 A. Gaponenko is a well-known activist for the rights of the Russian-speaking population in Latvia. He is a professor of economics and a former member of the Latvian Academy of Sciences, who also worked as an adviser to the Riga Municipality on economic changes in 1989–1993. After 1993, however, he found himself among non-citizens, and thus his opposition to government power began. His involvement intensified especially after 2004, when the first wave of nationalization of secondary education peaked. A. Gaponenko is the chairman of the Native Language organization, the leader of the Congress of Non-Citizens, and one of the representatives of the Staff for the Rescue of Russian Schools in Latvia.

complaint against him was personally filed by the chairman of the Latvian Parliament Committee for Security and Defence A. Latkovskis. The president of the security police, N. Medzhviets, has repeatedly criticized Gaponenko as an „enemy” or an „agent of Russian influence.” He was taken into custody by the Vidzeme court in a suburb of Riga. After being detained, according to the claims of his supporters, he was beaten and kept in handcuffs for 11 hours.⁴⁴

However, criticism also came from abroad. It was expressed not only by the OSCE High Commissioner for National Minorities Lamberto Zannier,⁴⁵ as already mentioned above, but also by the UN Committee for the Elimination of Racial Discrimination,⁴⁶ the UN Rapporteurs for National Minorities and Freedom of Expression, as well as the Council of Europe Commissioner for Human Rights.⁴⁷ The finding of the Latvian Constitutional Court, which supported the law on the grounds that national education constitutes „segregation,”⁴⁸ was also criticized, thereby violating the Convention against Discrimination in Education, the Convention on the Rights of the Child, and the International Covenant on Economic, Social and Cultural Rights.

Conclusions

The situations for Russians in the Baltics is not easy at all. After 1991, with the snap of a finger, as „descendants of the occupiers,” they were deprived of citizenship and thereby all rights arising from it, including the right to a home, despite the fact that they were born in the place of residence. They have no citizenship, not even Russian. They do not have the right to vote, work in the civil service, or serve in the army. They can

44 Александру Гапоненко грозит восемь лет лишения свободы. 23 апреля 2018 at 09:09. [Online] [cit. 2022.06.29]. (<https://izborsk-club.ru/15099>)

45 OSCE. 2019. Address by Lamberto Zannier OSCE High Commissioner on National Minorities to the 1229th Plenary meeting of the OSCE Permanent Council. Vienna, Austria. May 23, 2019 [Online]. [cit. 2022.06.12]. (<https://www.osce.org/files/f/documents/9/b/420572.pdf>)

46 UN CERD. Concluding observations on the combined sixth to 12th periodic reports of Latvia. Adopted by the Committee at its ninety-sixth session (August 6–30, 2018). August 30, 2018. [Online]. [cit. 2022.06.12]. (https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/LVA/CERD_C_LVA_CO_6-12_32235_E.pdf)

47 Language policies should accommodate diversity, protect minority rights, and defuse tensions. Strasbourg 9/10/2019 [Online]. [cit. 2022/06.12]. (https://www.coe.int/ru/web/commissioner/blog/-/asset_publisher/xZ32OPEoxOkq/content/language-policies-should-accommodate-diversity-protect-minority-rights-and-defuse-tensions)

48 Judgement on Behalf of the Republic of Latvia in Riga on April 23, 2019-06-18 in Case No.2018-12-01. [Online] [cit. 2022.06.29]. (https://www.satv.tiesa.gov.lv/web/viewer.html?file=%2Fwp-content%2Fuploads%2F2018%2F07%2F2018-12-01-12.-Saeimas-dep_latvie%C5%A1u-valoda-valsts-skol%C4%81s_ENG.pdf)

neither privatize nor own land, or even travel. The attitude of the representatives of the Baltic countries towards such a population was that as a „product of the occupation” they must leave, or they must more or less merge and assimilate with the Estonians and Latvians. That is why the naturalization process was then set up to be difficult, humiliating, and bullying for many. Many of the residents affected in this way preferred emigration or decided to accept Russian citizenship and live in the Baltics as foreigners; some attempted naturalization.

With the accession of the Baltic countries to the EU, this problem was Europeanized, but without a significant shift. *Non-citizens*, or *Apolitās*, did not even become EU citizens, and thus they did not acquire the rights of an EU citizen. Therefore, they cannot submit petitions to the European Parliament, complain to the European Ombudsman, or elect members of the European Parliament. During the accession process, certain pressure was created on the side of the EU as part of the fulfilment of the Copenhagen political criteria, but also on the side of the OSCE, the Council of Europe, and Russia, which led to certain corrections in the naturalization process and even made Latvia guarantee the children of *non-citizens* who were born after its declaration of independence an automatic right to citizenship, but it did not lead to the elimination of the selective approach in granting citizenship, which only supported the deepening of the contradictions between the majority population and the Russian minority. Representatives of the Baltic countries justify this approach by claiming that the presence of Russians threatens the national existence of Latvians and Estonians and that Russians are Moscow’s fifth column. It raises the question of whether these nations were actually fighting for the vision of an ethnically and racially pure state. Moreover, are those ethnographers not right after all, those who claim that the Baltic nations, like Finland, are inherently isolationist, even xenophobic, and that they do not actually tolerate any foreign culture on their territory?

After the end of the accession process and the accession of the Baltic countries to the EU, the voices of critics weakened. Even if international human rights organizations write „stacks of paper” every year, describing some kind of established situation, stating the implementation or partial implementation of the last recommendations, and proposing new recommendations, the reality for the Russian-speaking minority remains the same. The EU is very lax in its commitment to the rights of Russians in the Baltics, as it itself selectively criticizes human rights violations in its rhetoric. The USA and the autocratic regimes of the Persian Gulf are spared, while Russia and China, on the other hand, are subjected to overwhelming criticism. By using such a double standard, the EU itself participates in the anti-Russian campaign and incites manifestations of Russophobia in its EU Member States, the peak of which we are witnessing these days. Moscow has been blaming Brussels for the Baltic problem with the discriminatory status of minorities for a long time, but there is no response. After all, this discrimination is also defended by Slovak soldiers, stationing in the Baltics as part of the NATO

contingent as an allied commitment, and they regularly rehearse intervention scenarios to help the country in which Moscow was supposed to have provoked riots among the domestic population. Can anyone then be surprised if the continuation of such an approach would lead to intervention by the state that the national minorities consider to be their motherland?

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