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The (Re-)Creation of the Citizenry of Latvia: Questioning Ethnic and Liberal Democracy

Av: Klemens Witte

Handledare: Merrick Tabor (Stockholm University)

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Abstract

This thesis is foremost dealing with the process and the consequences of the restoration of the Latvian republic after 1991.

It was examined what liberal and ethnic democracy can tell about the assessment of citizenship in general and about the restoration of Latvia in particular. Further, it was analysed how the Latvian legislation defines the citizenry and if preference to a certain ethnic group is given. The change over time of the relevant legal documents was subject to this study as well.

It was evaluated, which impact the exclusive approach to citizenship (initially purely based on state-continuity) that in 1991 disfranchised 30% of the population, had for the rights of these people.

The method of ideational analysis was used to scrutinise the law texts.

In order to gain information on the effects for the population in question, the method of effect analysis was used. This was enriched with interviews conducted by the author on two occasions with governmental representatives, researchers and members of NGO's in Riga 2008.

The legal documents here, encompass the *Latvian Constitution* (1922), the *Resolution on Restoration* (1991), the *Law on Citizenship* (1994, 1995, 1998) and the *Law of the Republic of Latvia on the status of former USSR citizens who have neither the Latvian nor another state's citizenship* (1995). The literature read for the purpose of this study spans generally from 1992 to 2006.

The conclusion drawn here is that the strict application of the state-continuity thesis and the denying of state responsibility for the changes of population in 50 years time are inconsistent with liberal democracy. Rather this citizenship policy resembles features of an ethnic democracy.

The changes in the *Law on Citizenship* of 1995, where ethnic Latvians and Livs were given the possibility to come to Latvia and receive citizenship automatically (even if they were not citizens of interwar Latvia), while children born to non-citizen (all of them non-ethnic Latvians) after 1991, were not automatically conferred citizenship, made the preferential treatment for one ethnic group obvious.

Due to the fact that large parts of the minority population were disenfranchised, they were not able to contest important governmental decisions. As a result, laws directed against the interest of the minority population were introduction.

As a whole, a marginalisation of the minority population took place.

1. Note on Terminology

In my paper the terms „Latvian“ and „non-Latvian“ will be used to identify ethnicity and not citizenship. In order to denote citizenship, the terms „Latvian citizens“ and „non-citizens“ will be applied.

In the case of ethnic Latvians correlation between Latvian ancestry and Latvian language is strong. Latvians claimed Latvian to be their mother tongue at a rate of 98.4% 1959 and 97.4% in 1989.¹ This means that Latvian language can actually be equated with Latvian stock. Therefore the aforementioned category „Latvian“ is consequently closely related to language and ancestry. Likewise, in the case of ethnic Russians this correlation is equally strong (98.8% of the Russians in 1989 stated the language of their ethnicity as mother tongue).² Nevertheless, for the purpose of simplification ethnic Russians will be counted to the group „Russian-speaking“ or „Russophone“. The term “Russian-speaking” or „Russophone” will also denote a part of the other minority groups. It seems that to them the correlation between language and ethnicity is not as important. These groups regard Russian as their mother tongue irrespective of their ethnic belonging. In absolute numbers the vast majority of the minorities in Latvia regard Russian as their mother tongue. 79.1% of the Jewish population, 72.8% of the Belorussians, 67.8% of the Ukrainians and 57.7% of the Poles in the 2000 Population Census claimed Russian to be their mother tongue.³ From my perspective, another point to group these people in one category is the feeling of belonging together that these groups share, based not only on language, but also on the common experience in independent Latvia. Still, from time to time references to the ethnic stock of Russians and other minorities will be made, if this is required. It should be noted that a considerable share of the minorities is not Russian speaking, but Latvian speaking, or has a mother tongue other than Latvian or Russian.

„Nation-building“, how I understand and apply it, is the process of the creation or (re-creation) of a state by a certain ethnic group, which tries to accumulate power and make „their“ people the bearer of state power. The process of nation-building may be initiated after a period of non-dominance of the respective ethnic group. The degree of superiority over other ethnic groups can vary from country to country (it is possible that some other ethnic groups are partly allowed to participate in the leadership of the state). In consequence, the

¹ Губогло, Михайл: „Переломные годы. Том 1, Мобилизованный лингвизм”. Москва, 1993, стр. 53. [Guboglo, Michael: „Years of Change. Vol. 1, Mobilised Linguism”. Moscow, 1993, p. 53].

² Kolstö, Pal: „Political Construction sites. National-Building in Russia and the Post-Soviet States”. Boulder, 2000, p. 110.

³ Dimitrov, Alexei; Raihmann, Leonid: „NGO-Report on Implementation of the Framework Convention for the Protection of National Minorities by the Republic of Latvia (2007)”, p. 13: http://www.minelres.lv/coe/report/NGO_Report_FCNM_Latvia_2007.pdf (05.05.2008).

ethnic group in power is able to upgrade its status and construct a new state on its own conditions. From my point of view, this definition reflects the processes in the post-Soviet space adequately.

Ethnicity will be defined as common descent of people, as „blood-ties“ individuals that makes them in the one or other way belonging to a group. In this regard common ethnic stock is over greater importance than living in the same territory.⁴ This definition is corresponding to what Liga Luksos told me, that an ethnicity record (for instance in passports) based on the blood ties of a person (at least one direct ancestor had to be of the desired ethnicity) was obligatory until 2002.⁵ To prove the ethnicity of one's ancestors or of oneself it was required to provide the authorities with a birth certificate or Soviet Union passport (where an ethnicity was always stated).⁶ Today ethnicity in passports is voluntary and people can choose to state or not to state ethnicity in their passports.⁷

Not only blood ties, but as mentioned above also the Latvian language is an important part of the ethnic Latvian identity. For the most part, I will nevertheless argue, non-Latvians that acquire the Latvian language will still be seen as for instance Russians, Ukrainians or Jews that can speak Latvian. Thus, for ethnic Latvians the criterion of language has to be seen together with the blood ties, to be able to be counted as Latvian. On the part of the Russophone population - as the term implies - linguistic affiliation comes before ethnic descent.⁸

The use of the term „ethnicity“ itself in this work is not without problems. The major difficulty with the concept of ethnicity is that borders to other groups or cultures might be over-emphasised, while at the same time the homogeneity in a certain ethnic group is exaggerated.⁹ I understand that borders between ethnic groups are not always clear-cut but on the contrary often over-lapping, blurred and permeable or they may not be found at all. Concerning homogeneity in an ethnic group, it has to be said that also here, the range of differing self-perceptions and identities can be wide. Nevertheless I will apply the term ethnicity in my paper, because I think as a form of generalisation it helps to make the content of my work better understandable.

⁴ Onken, Eva-Clarita: „Demokratisierung der Geschichte Lettland: Staatsbürgerliches Bewusstsein und Geschichtspolitik im ersten Jahrzehnt der Unabhängigkeit“. Hamburg, 2003, p. 44.

⁵ Interview with Liga Luksos (Official of the Naturalisation Board), Riga, 10.05.2008.

⁶ Ibid.

⁷ Ibid.

⁸ Ethnic Russians at a rate of 77% use language as means of self-identification, on the second place follows ethnic belonging with 54%. See in: Рышакoвa, Светлана: „Латышский язык: Исторические преобразования и социокультурные аспекты бытования“. В: *Исследования по прикладной и неотложной этнологии*, № 192. Москва, 2006, с. 32. [Ryshakova, Svetlana: Latvian Language: Historical Reinvention and Social cultural Aspects of its existence. In: *Research on applied and urgent ethnology*, Vol. 192, Moscow, 2006, p. 32.]

⁹ Horton, John: „Liberalism, Multiculturalism and Toleration“. 1993, London, p. 3.

In addition to that, the terms of *jus soli* and *jus sanguinis* will be applied in this thesis. *Jus soli* stands for „right of territory” and means principally that citizenship of a state is granted though birth on state territory.

Jus sanguinis means „right of blood” and means in general that citizenship can be recognized to a person, if one or both of this person’s ancestors hold citizenship of the country in question. *Jus sanguinis* has a second dimension. States that are especially affiliated with a certain ethnic group, can also grant automatic citizenship to people that belong to the same ethnic group, even if their parents were not citizen of this state. This is maybe the more original meaning of the „right of blood”, since direct bloodline and not the citizenship of the parents, is the determining criterion for the granting of citizenship.

2. Introduction

As the Soviet Union disintegrated, Latvia declared its independence on August 21, 1991.¹⁰ From all former fifteen Soviet republics only one republic opted not to take on the name of the titular nation, but to form a federation state (the Russian Federation).¹¹ All the other fourteen republics chose to create nation-states, which bear the name of the respective titular group. Out of these fourteen republics, two chose not to grant citizenship to all former legal residents of the respective republic.

Estonia and Latvia created nation-states, where in the beginning only those who were citizens before 1940 received citizenship automatically. These politics had the consequence that during the first election to the Saeima (the Latvian Parliament) after the independence from the Soviet Union in July 1993 only pre-1940 residents were eligible to citizenship and thus allowed to vote. *De facto*, around 30% of the population in Latvia were not given automatic citizenship, were banned from elections, running for office, forming organisation and political parties and were to a lesser extend given share in the ongoing privatisation. This happened, in a period of time when overall important laws for the future of Latvia were made. Non-Latvians constituted the vast majority of non-citizens, although a share of the minority population also was granted automatic citizenship, since they lived before 1940 in Latvia. As a result of the exclusion of a considerable part of the non-Latvian population from citizenship, the Latvian share of the electorate rose from 52.7% (which corresponded to their actual share

¹⁰ See in: Constitutional Law: <http://www.verfassungen.de/lv/unabhaengigkeit1991.htm> (14.05.2008).

¹¹ Kolstó, Pál; Tsilevich, Boris: „Patterns of Nation Building and Political Integration in a Bifurcated Post communist State: Ethnic Aspects of Parliamentary Elections in Latvia”. In: *American Council of Learned Societies [ed.], East European Politics and Societies*, Vol. 11 (2), 1997, p. 366.

of population) in 1990, to 78.6% in 1993, when the first elections after independence were held.¹²

In line with the Citizenship Law was also the Language Laws, which regulated and enforced the use of state language in various institutions. This law made Latvian the only language in which communication with the authorities was guaranteed, while for instance Russian and all other languages were considered merely as „foreign“ languages. The Citizenship Law and the Language Law were the two main pillars, on which the nation-building policy of the Latvian republic rested. Later on, from the middle of the 1990´s the Education Law became increasingly important in terms of nation-building, because it stipulated the transition from training in the minority language to Latvian, in all state funded schools. The aim of all this was to compensate the titular people (ethnic Latvians) for the perceived misfortune they suffered during the incorporation of Latvia into the Soviet Union. In order to reach this objective a process of Latvianisation was initiated.

3. Ethno-Nationalism in Europe

It is widely believed that ethnic nationalism in Western Europe had been overcome after the Second World War. In fact the end of the Second World War gave rise to a second wave of expulsion of people not belonging to the respective titular group.¹³

„Together, these measures constituted the largest forced population movement in European history, with hundreds of thousands of people dying along the way. [...] As a result of this massive process of ethnic unmixing, the ethno nationalist ideal was largely realized: for the most part, each nation in Europe had its own state, and each state was made up almost exclusively for a single ethnic nationality. During the Cold War, the few exceptions to this rule included Czechoslovakia, the Soviet Union, and Yugoslavia.“¹⁴ Consequently, stability in Europe was guaranteed partly on the grounds that ethnic homogeneity was achieved and thus the potential for conflict decreased.¹⁵

A common theory today is that ethnic states by definition are ascribed to Eastern Europe, while the notion of a civic state is more widespread in Western Europe.¹⁶ Muller holds that this it is to certain extend true that liberal nationalism is more widespread in Western Europe

¹² Kolstö, Pal: *Ibid.*: p. 114.

¹³ Muller, Jerry: „Us and Them“. In: *Foreign Affairs*, Vol. 87 (2), 2008, p. 5.

¹⁴ *Ibid.*

¹⁵ *Ibid.*: p. 3.

¹⁶ Onken, Eva-Clarita: *Ibid.*: p. 42.

in the countries bordering the Atlantic Ocean (England, France, Spain, Portugal, Sweden).¹⁷ Nevertheless this view disguises some important facts, namely that the aforementioned countries went through a long period of ethnical homogenisation. Consequently it was easier to build up a greater degree of more inclusive, liberal state-hood, just because of the relative ethnic homogenisation compared to the Eastern and Central European counterparts.¹⁸

In comparison, entities in the middle of Europe, like Italy and Germany, were fragmented into hundreds of single units and only in the middle of the 19th century this changed, when most ethnic Germans and Italians were included in the respective territorial entities.¹⁹ More eastward most of the countries were part of multiethnic empires, which were torn apart due to the First World War.²⁰ Most of these new states, emerging after the First World War opted for a more nationalistic orientated political system, while restricting the rights of minorities. The less ethnic orientated state-building processes in Western- and Northern Europe are thus at least partly owed to a less ethnically diverse population, which made the need to implicitly define one ethnic group as the „ruler“ of the state unnecessary. In contrast, many states after 1991 became independent for the first time or re-build independence.

The presence of large minority groups in these countries (and the perceived threat they posed to independence), made a big number of these countries to define the state as belonging to a single ethnic group and thereby directly or indirectly disqualifying other ethnic groups, to have the same rightful claim to the country. The three Baltic States, Lithuania, Latvia and Estonia are no exceptions in this regard. While the degree of inclusiveness of national minorities in these countries is varying, the respective titular group is seen to have the main claim to the country. The citizenship policy pursued in the Baltic countries has to be highlighted against this background in order to understand the underlying motivation to opt for rather exclusive citizenship in Latvia and Estonia. Asbjørn Eide notes in this regard:

Ethno-nationalism is frequently also pursued by majorities against minorities living in their country. One approach is that of restrictive citizenship legislation. Permanent residents who have lived in a territory prior to its recent independence are in some cases disenfranchised when then do not belong to the dominant ethnic group (Estonia, Latvia). [...] The minuscule groups who, while not being ethnically Estonians and Latvians

¹⁷ Muller, Jerry: Ibid.: p. 4-5.

¹⁸ Ibid.

¹⁹ Ibid.: p. 5.

²⁰ In the Russian Empire for instance, during the 19th century the foundation of a national consciousness was rather weak, due to a dispersed population and because of the close contact to other language- and religious groups. See in: Brooks, Jeffrey: „When Russia learned to read. Literacy and Popular Literature, 1861-1917“. Princeton, 1985, p. 215.

respectively, but who arrived before 1940, are not disenfranchised. Thus, it is not purely ethnic policy, but for all practical purposes it has the effect of ethnic exclusion.²¹

As mentioned above, the liberal democracies in Western Europe were when they arose as states more ethnically homogeneous, than many entities in other parts of Europe, or even the world. In the aftermath of the Second World War, large parts of non-titular population in many European countries were subject to expulsion and deportation, in order to reach more ethnically homogeneity. Thus, several liberal democracies of today are based on ethnic exclusion in the past.

4. Previous Research

In the research on liberal democracy I focused among others on the works of Larry Diamond, a US-American political scientist, who addresses first of all citizens as the holder of rights that stem from the system of liberal democracy. Other researchers were less precise in their definition who should be entitled to rights in a liberal democracy and meant that everybody should be able to have a say in the political decision-making. Diamond was as well one of the few, who sees it as important that minorities are not oppressed, however without defining who shall be admitted to citizenship and thus benefits from the rights liberal democracy offers. It will be discussed here, if the citizenship criterion is justified in case of Latvia and the non-citizens there.

David Held, a British political scientist, defines in his book „Models of Democracy” universal suffrage as a basic feature of liberal democracy. However, he does not clarify who should enjoy the right of universal suffrage. It will be pointed out in this work, how Held understands universal suffrage, in order to give a better perspective on the situation in Latvia after 1991.

Will Kymlicka, a Canadian political scientist, argues in his book „Multicultural Citizenship” that liberals and liberal democrats often implicitly take for granted that the major culture of a country is protected through the restriction of admission to citizenship for members of other cultures (that are not citizens, but immigrants). He concludes, if the majority culture in a country is in that way strengthened, then the same should apply for minorities already being citizens in the country. Thus minority group rights for citizens are in line with liberal democracy. However, it is not clear if a large population of non-citizens (not

²¹ Eide, Asbjørn: „Citizenship and International Law: The challenge of Ethno-Nationalism”. In: Danish Centre for Human Rights [ed.] *Citizenship and Language Laws in the Newly Independent States of Europe*. Unpublished seminar paper of a conference held January 9-10, 1993 in Copenhagen, p. 6.

immigrants) should enjoy the rights of a citizen minority group (as the Native Americans in the US for instance). As with the authors mentioned above, the aim is to be able to see, if liberal theory is evident in the context of Latvian citizenship policy.

For the understanding of ethnic democracy, the reading of Sammy Smooha's book „The Fate of Ethnic Democracy in Post-Communist Europe” was informative. Smooha, an Israeli political scientist, created as one of the first a model to describe the political system of Israel and was not pleased by simply classifying Israel as a liberal democracy. In his model, the state serves mainly a certain ethnic group. This group has by definition more rights than other groups. Due to Smooha's this scenario is still to be categorised as a democracy, because basic democratic rights are extended to the non-core permanent resident population. It should be seen in this thesis, whether ethnic democracy can be a valuable tool in the analysis of Latvian citizenship policy. Furthermore, the handling of ethnicity in the legislation as pursued in Latvia shall be closer considered with regard to Smooha's model.

Yoav Peled, an Israeli political scientist, also labels the political system of Israel as an ethnic democracy. He concentrates in his article „Ethnic Democracy and the Legal Construction of Citizenship: Arab Citizens of the Jewish State” on the fact that in Israel two different citizenships exist: Jewish citizenship that entitle to the common good of the state and Arab citizenship, which entitle basic rights, but does not allow for active participation in the state. Peled's findings are used to despite the democratic features in the Israeli political system, more clearly present the notion of the Arab „second class citizen” that is in general also the corner stone of Smooha's model.

Juan Linz, a Spanish-German USA-based political scientist and Alfred Stepan, a US-American political scientist, designed in their book „Problems of Democratic Transition. Southern Europe, South America, and Post-Communist Europe” a model for nationalising states on the way to democracy. In their model the not extending of basic right connected to citizenship was a possible feature of a nationalising state on its way to democracy. Depending also on how, the state solved other problems concerning ethnic minorities, the likelihood of becoming a real democracy was higher or lower in regard to the degree of exclusion. The research done by these two authors shall serve the purpose to underline the parallels to Smooha's ethnic democracy and to release ethnic democracy from the narrow fixation on the political system of Israel.

Both Aina Antane, a Latvia-based historian and Boris Tsilevich, a Latvia-based Physician (involved in politics and research) are part of the minority community and wrote the book „Latvia. The Model of Ethnopolitical Monitoring”. The book critically reviews the

Latvian legislation passed since independence and gives valuable insight on the consequences these laws had for the definition of the citizenry in Latvia. The ethnic twist and the practical implementation of the Latvian legislation were particularly highlighted here. The results and conclusions made by both authors will be widely used in my own research.

The work of Maija Kruminja, a Latvia-based political scientist, „The Integration of Ethnic Minorities in the Latvian Republic”, goes in the same direction as the aforementioned book and is foremost analysing the consequences of Latvian legislation since independence and the problematic legal status of the non-citizens. As the book of Antane/Tsilevich, Kruminja maintains that through the Latvian legislation, domination over the non-Latvian part of the population was achieved. The work of Kruminja enables to a critical review of Latvian citizenship policies and it´s consequences.

In terms of the process of ethno-national nation-building the book of Pål Kolstø, a Norwegian political scientist, „Political Construction sites. National-Building in Russia and the Post-Soviet states”, gives a broad overview how the Latvian nation-building developed in the sphere of politics and generally in the whole society. It critically analyses the processes in Latvia, from a more multi-cultural perspective and gives valuable background information for the whole Latvian nation-building project that will be utilised in my thesis.

The book of the US-based political scientist Dovile Budryte´s, „Taming Nationalism? Political Community Building in the Post-Soviet Baltic States”, gives a good overview over the political processes around the creating of the citizenship-laws and provides with impressive quotation from politicians on the issue of the non-citizens (and also on the non-ethnic Latvian citizens).

The article „Citizenship Struggles in Soviet Successor States” by Rogers Brubaker, an US-American Social Scientist, informs the reader about the citizenship policies in the Baltic states and defines the choice a restored state has in determining the citizenry. Moreover, the article points to the fact that already established states have merely to solve the question how to replenish their citizenry, but not how to create it anew. Brubakers article is useful to get acquainted with the different choices states can make, when the creation of citizenry is concerned. Generally, my work holds that elements of *jus soli* and *jus sanguinis* are applied in most states. Nevertheless, states with strong ethnic affiliation tend to have more of *jus sanguinis* anchored in their citizenship laws.

5. Purpose of Studies

In this work I will try to shed light on the process of how Latvia defined the initial citizenry after the state was created (or re-created) in 1991.

The citizenry is thought to embrace all permanent resident adults, who have full citizenship rights (besides children and people that are believed to be mentally ill), but certain people might not be included into the citizenry, although permanently residing in the country.

It is widely anticipated that in an ideal democratic society all long-term adults should be able to participate in equal elections. Consequently, theories of democracy should be able to provide definitions, for who is to be part of the body of citizens, since these citizens are the ones who will vote in elections. Dahl sees free elections, inclusive citizenship, freedom of expression, alternative sources of information, associational autonomy and elected officials as important conditions for democracy (he admits that probably no state is living up to all 5 criteria, therefore these conditions function as ideal type).²²

The process of creating and replenishing the citizenry is crucial, because citizenship is regulating the inclusion or exclusion into the constituent part of a state. I will try to find answers to the questions: How do liberal and ethnic democracy relate to exclusive or inclusive citizenship and to the Latvian approach in general? To what extent do these models of democracy take „restored” states into consideration?

Additionally, it is not only crucial in the context of this work, who is defined as part of the citizenry, but also who is excluded from citizenship and thus from rights that are connected to citizenship. It appears that the exclusion from citizenship has serious effects on the people in a society. Dahl argues that it is evident that people without citizenship are subject to exclusion in today’s world.²³ I believe that persons excluded from citizenship, might as a consequence also be limited in other rights.²⁴ My aim is to answer on the next questions as well: Which practical effects had the exclusion of a considerable part of the population? Which other rights, not directly connected to citizenship might be subject to restriction? How is the Latvian legislation in regard to ethnicity handling the issue of citizenship?

²² Dahl, Robert: „On Democracy”. Yale, 2000, p. 42, p. 85.

²³ Ibid.: p. 76.

²⁴ If a certain group is banned from citizenship, the rights of this group in the long term might be subject to limitations: „Electoral politics lie at the heart of the problems of combining democracy with ethnic diversity. [...]. Deep ethnic divisions tend to undermine democracy by introducing exclusion and polarization into electoral politics. If ethnic division are translated into ethnically based parties, politics tend to polarize around prescriptive identities; majorities feel threatened, whereas minorities feel excluded, rendering the maintenance of competitive elections and democratic decision-making arduous at best.”

I will examine how a state in a multi-ethnic context chooses to determine the initial citizenry. Division-lines in a multi-ethnic society like the Latvian have the potential to run deeper than divisions in ethnic homogeneous societies.²⁵

I see laws as the formal instrument of a state to realise its objectives concerning the constitution of the body of citizens. I selected the *Latvian Constitution* (1922), the *Resolution on Restoration* (1991), the *Law on Citizenship* (1994, 1995, 1998) and the *Law of the Republic of Latvia on the status of former USSR citizens who have neither the Latvian nor another state's citizenship* (1995), as point of departure since these laws are in my view the most essential pillar for the creation of the citizenry and non-citizenry of Latvia.

6. Method

As law texts will account for the major part of my analytical work, I will apply the method of ideational analysis. This method originally was aimed to trace down the logic in political argumentation.²⁶ The reason why I chose ideational analysis as a tool is that it made the ideas behind the Latvian legislation visible and enabled to scrutinise this legislation from the perspective of liberal and ethnic democracy. Moreover, this kind of analysis served the purpose to provide the reader with a comprehensive overview of how the citizenry of independent Latvia is defined by the laws on citizenship, the constitution and other relevant legal sources. The following questions are central to the ideational analysis:²⁷

Which groups obtain citizenship automatically?

Which groups receive preferential treatment in applying for citizenship?

What has to be done to successfully undergo naturalisation?

Who is excluded from the possibility to become part of the citizenry?

It was important to pose these questions, because the people that were accorded automatic citizenship in a newly emerged (or restored) state are believed to be the core-citizenry. Asking who is preferential treated in applying for citizenship, it was possible to bring out, who is seen as a more desirable citizen out of the big number of people that are not automatically

²⁵ I am aware of the fact that besides ethnic division lines, there are existing a whole lot of other divisions in a society (for instance: Man/Women, Poor/Rich, Young/Old, Religious/Non-Religious, Homosexual/Heterosexual). At the same time, these division lines are to an extend product of our minds.

²⁶ Bergström, Göran; Kristina, Boréus: „Textens mening och makt. Metodbok i samhällsvetenskaplig text- och diskursanalys”. Lund, 2005, pp. 155- 156.

²⁷ The question posed in this part, served to find answers on the most important questions that were presented in the chapter on the purpose of my study.

conferred citizenship. The requirements set for naturalisation served as scale to judge in how far the state is willing to allow for the recruitment of new citizens. While asking which people are excluded from the right of naturalisation, it became clear, who is not a desirable citizen.

As with regards to the Constitution other questions were of importance in order to seek knowledge in my field of studies:

What role is ethnicity playing in the *Constitution of Latvia*?

How are the rights of citizens or non-citizens addressed in the constitution?

Ethnicity is important, because it plays a role in the accord of citizenship. To analyse what the constitution says about citizens and non-citizens gave explanations as to which interest the state is most of all representing.

The third legal document that was studied is the law that determines the status of non-citizens. Three questions were of central importance.

Who qualifies as a non-citizen?

What rights do non-citizens have?

Who is excluded from the possibility to become part of the non-citizensry?

As special rights are granted to non-citizens in comparison to foreign citizens, it was essential to know who can enjoy these rights. The rights of non-citizen were closer analysed. From the perspective of liberal and ethnic democracy, it was meaningful to find out who is excluded from the right of becoming Latvian non-citizen.

On the whole, by finding answers to this question it was possible to reveal the underlying principles of the delineation of the citizenry of Latvia. The laws tackled in the present study were analysed carefully and a large extent of the legal provision of the respective laws were included. The constitutional provisions were more often not concerning my field of research and therefore the examination of the Constitution is comparatively **less** comprehensive.

To find answers to my questions in the relevant legal documents was sometimes difficult, since these laws discussed here are not easy to understand. A lot of literature reading, valuable assistance of interviewees and my previous studies in economical law helped me to interpret the law texts. The way I presented the content of the law in my

ideational analysis is easier understandable as in the original law texts and orientated at making these laws accessible to the reader.

I conducted a limited effect analysis to be able to shed light on how the changing legal context affected the citizenship status of the different ethnic groups and if preferential treatment to certain ethnic groups was traceable.²⁸ This research tool was selected, because it is suitable to explain and describe the effects of the ideas that are central to Latvian legislation. In this way I was able to exemplify a part of the societal context around the legal definitions and direct consequences of the legal provision on the population of Latvia. Additionally, the effect analysis tried to throw light on consequences for the non-citizens population that were merely indirectly connected to the citizenship legislation.

I was able to gather information on the implementation of the laws and the effects on the population through interviewing experts, politicians and officials in Latvia. These interviews helped to examine the practical implications of laws for society and for certain ethnic groups and enriched my effect analysis. Moreover, the rather vast literature on Latvian citizenship policy likewise contributed to the content of my effect analysis.

With regards to the practical effects of laws, not only the direct effects on the population were the main focus but also the process of implementation of laws and the amount of time passed until the passing of laws on central issue was of interest as well, since it is scale for the degree of exclusion and inclusion.

The effect analysis had a second purpose. Besides the analysis of the effects and implementation of laws, comments central to the understanding of the ideational analysis were made. In this way, the effect analysis was seen as a kind of explanation to the ideational analysis. I opted not to limit the effect analysis of the Latvian citizenship legislation to certain fields, as for example to the labour market. This restriction would be artificial, because as I see it the *Law on Citizenship* had a great impact on the status of the people concerned in all possible respects. All in all, the combination of the abovementioned methods allowed for a thorough analysis of how the citizenry of Latvia was shaped.

The legal provisions, which were subject to my research cover the years from 1991 to 1998. The research on citizenship policy spans to 2006. This long period was selected, to show the development and changes in the definition of the citizenry over the course of time.

In February 2008 and May 2008, I interviewed officials, researchers and representatives of NGO's in Riga.²⁹ With regard to the interviews, I aimed to interview people

²⁸ Bergström, Göran; Kristina, Boréus: Ibid.

²⁹ The following persons were interviewed by the author in February 2008: Aleksej, Dimitrovs (Chairman of the Latvian Human Rights Committee), Vineta, Ernstsone (Ministry of Education, Governmental Advisor for

that were active in politics, officials responsible for the implementation of laws, researchers involved into citizenship issues and finally one member of a Latvian-based NGO. This broad range of different people, served the purpose to collect a wide range of information and opinions on my research topic. Secondly, as I presumed that ethnic cleavages are prevailing concerning the attitudes towards the Latvian policy on citizenry, I attempted to meet people from the minority- and the majority community equally. As a result, I got a deep insight into the Latvian politics concerning minorities and especially into citizenship policy and language policy.

Moreover, I analysed how liberal democracy and ethnic democracy relate to ethnic nation-building in a context of multi-ethnic population. In order to find out which implications the two ideal types - ethnic- and liberal democracy - have for the (re-) creation of towards the citizenry, I conceptualised these models.

The model of ethnic democracy is represented in this work by Smooha's ideal type. This ideal type was compared with the concept of „nationalising states“ as created by Linz and Stepan. This comparison was of assistance, to make the model of ethnic democracy more applicable to other countries (and not solely to Israel) and served as a tool to gain valuable information on the connection between citizenship, ethnicity and democracy.

The ability of these ideal types to allow for interpretation of processes from an ethnic perspective, gave the possibility to more deeply understand the mechanisms crucial to politics in Latvia.

To open for comparison, besides the model of ethnic democracy, liberal democracy as a widespread political system was examined as well. Many different statements on liberal democracy that concern matters of inclusion and ethnicity were analysed. Each time in the end of the revision on liberal- and ethnic democracy, I created a shortened operationalisation of these models on the issues that are essential for this thesis. When designing the respective conceptualisations, my research question guided me to work out the most important features, essential for this thesis.

Language Policy), Dimtrij, Katemirov (NGO: Infozone Lab), Nils, Muizieks (Lecturer at the University of Latvia, Former Minister of Society Integration Affairs), Agris, Timushka (Director of the State Language Centre), Dimitrijs, Petrenko (Researcher at the Latvian Centre for Human Rights). In May 2008: Juris, Rozenvalds (Professor of History at the Latvian State University, Former Member of the Independence Movement), Kehris, Ilse (Head of the Human Rights Centre in Riga), Ina, Druviete (Member of Parliament, Lecturer for Sociolinguistic in Riga, Former Minister of Education, Contributor to the Language Laws), Oskars, Karstens (Minister of Integration), Liga, Luksos (Official of the Naturalisation Board Riga), Igor, Pimenov (Member of the Riga City Council, Head of Lashor, Organisation for Education in Russian), Boris, Tsilevich (Member of Parliament, Researcher).

The purpose of connecting definitions of the citizenry with the ideal types of liberal- and ethnic democracy was to allow for a bright understanding of how democracy and the issue of creating a „new“ citizenry (and non-citizenry) are related to each other.

7. Models of democracy

As with all models, categorisations that aim to function as a tool in order to describe the surrounding world, they can never correspond 100% to reality. Rather models should be seen as ideal types in which more common features are presented and less common features are left out. In certain cases, especially when one country is to be classified, existing models can lack special features, which are prevailing in a country. Generalisations enable the human being to reduce incoming information and shape the decision making process. The provision of models of ethnic- and liberal democracy intends to open the field for general conclusions on Latvian citizenship policy in light of these two models.

7.1 Liberal Democracy:

In this work I will take up the model of liberal democracy, because it is believed to be the most widespread democratic model in today's world. For this reason the analysis of this form of democracy and its relation to ethnicity and inclusiveness/exclusiveness in regards to citizenship, is of special interest.

Liberal democracy is a political system that is commonly believed to prevail in a lot of Western countries.³⁰ Quite a lot of scholars have dedicated their time to explore the characteristics of liberal democracy.

One of them is Holden. He thinks that liberal democracy is often equated with democracy as such: „...because of the tendency to rule out the possibility of democracy of any other form, liberal democracy tends to be treated as the same thing as democracy.“³¹ Concerning the participation of the people in liberal democracy Holden states: „...the whole people positively or negatively, make and are entitled to make, the basic determining decisions on important matters of public policy, but [...] they make, and are only entitled to make, such decisions in a restricted sphere since the legitimate sphere of public authority is limited.“³²

³⁰ Australian Politics. COM: <http://australianpolitics.com/democracy/liberal-democracy.shtml> (02.05.2008).

³¹ Holden, Barry: „Understanding liberal democracy“. New York, 2003, p. 16.

³² Ibid.: p. 17.

The limitation of public sphere in liberal theory results from the deep believe that an individual in many areas is capable of handling his or her live better than any government could ever do. The freedom of the individual stands very high on the agenda in a liberal democracy.³³ Baradart argues that in liberal democratic theory: „...the individual is the most important and valuable part of the society...”³⁴ Holden goes on to explain that a distinctive feature of democracy is seen in the idea of one person one vote. If a decision has to be made: „...then all the constituent individuals must be involved.“³⁵ At the same time Holden means that it would be logically to assume that in collective decisions the will of the majority should determine the decision.³⁶ Still it is clear that the decision of the majority cannot be equated with the choice of all people. The decisions of majorities can even be directed against the existence of minority rights and thus threaten a certain group in society. Holden goes on, that one has to distinguish between two kinds of majority decisions: statements that are made in order to gain the highest number of possible votes, and on the other hand the use of a majority-decision strategy, made by a majority group with certain ascribed features (for example ethnic affiliation) in power.³⁷ The latter decision-making process is only possible in polarised societies, otherwise: „... `the majority` is a mathematical expression...”³⁸ Holden means that the will of the majority shall be dominant, however it should take into consideration the public interest and thus the view of the minority.³⁹ He concludes that in order to be able to make decisions one has to leave aside „...narrowly individualistic assumptions...” and accept the notion of common views arising.⁴⁰

Ceaser assumes: „...liberal democracy [...] seems today to be the envy of those who do not possess it and the model toward which more and more nations aspire.“⁴¹ Due to his opinion, liberal democracy is a mixture of two different principles. Similarly to Holden he suggests that on the one hand liberal democracy points to the protection of rights, a limited scope of the government and deliberate decision making.⁴² On the other hand liberal democracy implies the meaning of rule by the people and a government, which has the task to

³³ Taking the USA as example for a liberal democracy, the possession of firearms among the population as a means of self-defence and a basic individual right is widely accepted. Although these firearms kill every year thousands of people, in most states no prohibition of firearms for private use has been implemented.

³⁴ Baradart, Leon: „Political Ideologies. Their Origins and Impact”. New Jersey, 2006, p. 110.

³⁵ Holden, Barry: Ibid.: p. 21.

³⁶ Ibid.: p. 43.

³⁷ Ibid.: p. 45.

³⁸ Ibid.

³⁹ Ibid.: p. 47.

⁴⁰ Ibid.

⁴¹ Ceaser, James: „Liberal Democracy and Political Science”. Baltimore, 1990, p. 5.

⁴² Ibid.: p. 8.

act in the interest of these people.⁴³ As well as Holden, Ceaser is referring to the majority-rule in a democratic system. He holds that if a majority is corrupt, this majority is able to unjustly, but legally take what it wants from society.⁴⁴ In his belief this is neither a desirable nor a legitimate system.⁴⁵

Stokes and Carter concentrate on the different critics of liberal democracy, they see the student riots in Western Europe and Northern America in the 1960's and 1970's as an expression for the tension between liberalism and democracy.⁴⁶ Certain groups of society were at that time opting for more participation in the democratic government of their respective countries.⁴⁷

Horton in difference from many other authors writes concerning the connection between liberal democracy and ethnicity: „All modern liberal democratic societies are marked by diversity and difference of ethnicity, culture and religion [...].“⁴⁸ He adds that until recently the concept of liberalism was thought to frame much of the aforementioned diversity, because due to Horton liberalism values were influenced by the struggle of different religions, which liberalism tried to accommodate and through religious tolerance achieve a stable nation-state.⁴⁹

Ball and Dagger describe liberal democracy as an institution that is underlining the importance of rights and liberty. Everyone should without restrictions be able to participate in the public sphere.⁵⁰ Even more important, in a liberal concept of democracy is that, as a rule the interference of the state into private matters should be as much limited as possible.⁵¹ Summarised, in this form of democracy the individual shall be free to be able to do what is best for her or him, as long as this does not prevent other people from doing the like.

Liberal democracy is also equated with a representative democracy, where the rights and liberties of individuals are guaranteed by the rule of law and the constitution.⁵² Additionally, liberal democracy also contains the idea that certain limitation for the exercise of majority power will be in place, with the aim to protect the rights and liberties of minorities.⁵³ Like in the aforementioned approaches to liberal democracy it is pointed out that

⁴³ Ibid.

⁴⁴ Ibid. p. 10.

⁴⁵ Ibid.

⁴⁶ Carter, April; Stokes, Geoffrey: „Liberal Democracy and its Critics“. Cambridge, 1998, p. 3.

⁴⁷ Ibid.

⁴⁸ Horton, John: Ibid.: p. 3.

⁴⁹ Ibid.

⁵⁰ Ball, Terence; Dagger, Richard: „Political Ideologies and the Democratic Ideal“. NYC, 1990, p. 88.

⁵¹ Ibid.

⁵² Wikipedia: Liberal Democracy: http://en.wikipedia.org/wiki/Liberal_democracy (17.05.2008).

⁵³ Ibid.

the major point of tension is between the rights and freedom of the individual and the rule of the people.⁵⁴

Larry Diamond also contributes to the model of liberal democracy and points out what characterises liberal democracies. He claims that in a liberal democracy the outcome of elections should be open, the opposition should gain considerable votes and no group that respects the Constitution should be denied to take part in elections.⁵⁵ Citizens should have the right to promote their ideas through various associations, which they can freely establish and join.⁵⁶ The freedom of speech, religion, assembly and publication is ensured to a substantial degree and the civil rights of the citizen are protected by an independent jurisdiction.⁵⁷ Equality of citizens under law is likewise a crucial condition for liberal democracy.⁵⁸ Diamond creates a negative precondition in relation to minorities in his model, arguing that minorities should not be subject to oppression.⁵⁹ He goes on that the rule of law is equally respected in a liberal democracy, protecting citizens from the abuse of their human rights and therefore the Constitution in a liberal democracy is of essential importance and is supreme.⁶⁰

Held distinguishes between two types of liberal democracy, protective democracy and developmental democracy. In the ideal type of a protective democracy the ultimate power is vested in the people, but exerted by elected representatives.⁶¹ Held also sees separation of power, civil liberties, the limitation of the scope of government action, election, competition between parties and respect to the Constitution as essential features of a protective democracy.⁶² The rule of the majority is also a feature of this type of democracy, without the requirement that this rule should be in any way restricted.⁶³ In difference from most of the authors discussed above, Held creates the following characteristic conditions for the development of such a system: an independent civil society, private ownership, patriarchal family structures, a market economy and extensive control over the territory by the state.⁶⁴ The second ideal type, the developmental democracy embodies all major features of a protective democracy, but stresses active participation of citizen in the state politics. Due to Held, involvement into the state's business is not only promoted to protect the citizens from

⁵⁴ Ibid.

⁵⁵ See: Diamond, Larry's criteria in: Prospects of Democracy in Asia: <http://www.thinkcentre.org/article.cfm?ArticleID=375> (18.05.2008).

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Held, David: „Models of Democracy”. Cambridge, 1996, p. 99.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

the state, but as well a means to create an informed and „developing“ citizenry.⁶⁵ This is guaranteed by a wide ranging participation in local government and public discussions.⁶⁶ Held regards as a key trait in the context of this model the principle of universal suffrage together with the proportional allocation of votes.⁶⁷ As a chief difference to protective democracy, patriarchal family structures are absent in this model, in contrast the political emancipation of women is a basic principle (while not changing the conventional labour division).⁶⁸

Discussing universal suffrage, Held refers to the situation of Afro-Americans in the US, who although they were citizens, could not exercise full citizen rights. Voting rights of Blacks in the Southern states of the US were subject to discrimination, (officially holding the right to vote) through for examples the means of poll taxes and literacy tests (as in Mississippi) most black men were in this way banned from elections (later as this question arose, also black women were subject to the same treatment).⁶⁹ Held means that during the US-American civil rights movement in the 1950's and 1960's: „...the idea that the rights of citizenship should equally apply to all adults slowly became established [...] It was only with the actual achievement of citizenship for all adult man and women that liberal democracy took on its distinctively contemporary form...“.⁷⁰

Will Kymlicka analyses liberalism (and implicitly liberal democracy) from a multicultural perspective. He is convinced that liberals implicitly accept that people living in a state are attached to different cultures, which has consequences for their individual choices and therefore one task of the state is to accept these distinct cultures.⁷¹ This leads due to Kymlicka to a liberal state, which is not only protecting rights of individuals, but also: „... people's cultural membership.“⁷² Cultural membership in a given state is often connected to a mainstream culture which is represented by a core ethnic group. Therefore when protection of the culture of a state is concerned, usually the cultural rights of a majority group should be protected, which are perceived as being the focal point of state policy. As a consequence of the protection of the dominant majority culture, Kymlicka suggests minority rights in multinational states, even within the framework of a liberal state, since minority groups evenly

⁶⁵ Ibid.: p. 116.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ As the white leader of the convention in 1890 that introduced rules, making it hard for blacks to register for voting, declared: „We came here to exclude the Negro...“. Quoted in: Race and Voting in the Segregated South: http://www.crf-usa.org/brown50th/race_voting.htm (18.05.2008).

⁷⁰ Held, David: Ibid. p. 119.

⁷¹ Kymlicka, Will: „Multicultural Citizenship“. New York, 1995, p. 125.

⁷² Ibid.

need protection from the effects the policy of the majority culture have on them.⁷³ He sees this as in line with the principles of liberalism and refers to liberal principles of equality as developed by Rawls.⁷⁴ Minority representatives should have the same rights, to live and work in their cultural and language environment as representatives of majority culture representatives can do.⁷⁵ Only in that way they can have equal chances with members of the core or mainstream culture.⁷⁶ Kymlicka also touches upon the issue of inclusion. He holds that groups of people which regard themselves as being excluded from the state seek to be part of this state, through the official recognition of their otherness.⁷⁷ Kymlicka holds that the extending of special rights to these groups are perfectly in line with liberal-democratic tradition and prevent the often addressed liberal critique of majoritarian rule in democracy.⁷⁸

Generally, it is remarkable how little is said in liberal democratic theory about the relation of this theory to the concept of ethnicity. Tsilevich remarks: „Liberal-democratic philosophy does not offer clear rules for handling ethnocultural diversity.“⁷⁹ The different definitions of liberal democracy, do not say either much about the process how in new emerging states or in restored states the citizenry should be determined. The issue of who actually should be part of the citizenry is often approached in quite vague terms.

In regard to political decision-making, Holden claims that „the whole people“ should be able to contribute to basic decisions. Ceaser means that liberal democracy implies „rule by the people“. Ball and Dagger mean that „everyone“ should have the opportunity to participate in the public sphere.

Concerning the discrimination of voting rights, Helds comments on the US-American case of practically denying voting rights to blacks, and sees the granting of citizenship to all citizens as necessary in a liberal democracy. However, Held does not distinguish between granting citizenship and ensuring equal rights for all people who are already part of the citizenry (blacks at that time in the southern states). Consequently, Held’s definition does not take up the question of accession to the citizenry, the most important way to receive legal rights in a liberal democracy.

Diamond addresses in his definition of liberal democracy mostly citizens. In regards to the criterion that minorities should not be oppressed it is not clear if such a minority could

⁷³ Ibid.: p. 126.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.: p. 176.

⁷⁸ Ibid.

⁷⁹ Tsilevich, Boris: „New Democracies in the Old World: Remarks on Will Kymlicka’s Approach to Nation-building in Post-Communist Europe”. In: Will Kymlicka [ed.] *Can Liberal Pluralism be Exported? Western Political Theory and Ethnic Relations in Eastern Europe*, New York, 2001, p. 154.

also consist of people who are not citizens. Furthermore it is often referred to the equal individual rights of citizens and persons in general.

Kymlicka criticises liberal theorists for not being consequent in their argumentation. He thinks that most liberal theorists talk about: „...the moral equality of `persons`, but end up talking about the equality of `citizens`, without explaining or even noticing the shift.“⁸⁰ Referring to potential immigrants, Kymlicka notices that liberal theorists limit citizenship to the groups being already in the territory, with the aim to protect citizens´ membership in distinct cultures.⁸¹ By and large, most of the liberal theorist do not favour the notion of a „world citizenship”, making it easy to cross boundaries and settle down in another countries for all people. On this fact Kymlicka´s rests his argumentation to a large extend.

The problems and question that come up in connection with the emergence of new or restored states, when the initial citizenry has to be defined anew, are not central in liberal democratic theory. Nevertheless some important conclusions can be drawn from the different statements on liberal democracy. Majoritarian rule against the interests of the minorities and oppression of minorities is not desirable. Thus, a very large number of stateless persons in a state, would contradict to the ideals of a liberal democracy. Even if these stateless people are not citizens, it seems unreasonable to allow a kind of majoritarian rule of citizens against a large number of non-citizens.⁸² Considering the fact that in restored states or newly build states, the majority and the minority group may were part of the same state and had the same citizenship, it seems even more in confrontation with the ideals of a liberal democratic theory not to grant citizenship to these people.

The question stays open, as to whether the feature of open elections applies in a situation where a considerable part of the permanent population is not able to vote. Given the case that a considerable part of the minority has the right to vote and even if a party that represents the rights of other ethnic groups gets votes as opposition party, this might not be considered liberal, if the party/parties in question are consequently and by definition excluded from all ruling coalitions.

Finally I define liberal democracy as a political system where equal rights for individual citizens are essential. The intrusion of the state into the private sphere is restricted. The accession to citizenry is not open to everybody who wishes this, but is subject to limitations. In contrast, situations where a large part of the permanent residents are not part of

⁸⁰ Kymlicka, Will (1995): Ibid.: p. 125.

⁸¹ Ibid.

⁸² Not the prevailance of non-citizens or stateless *per se* prevents from classifying the country as a liberal democracy. Here the number of these people has to be considered, as well as the reason for their prevailance.

the citizenry is not in line with the principle of liberal democracy. The creation of a first-class and second-class citizenship is not compatible with liberal democracy either. The rejection of parties merely because they represent the interest of the „wrong group” ethnic or religious group is not possible.⁸³ The official claim of an ethnic or religious group to the state and the country is not consistent with the principles of liberal democracy.

In practical terms however integration (or even assimilation) into a major culture is in most liberal democracies required.⁸⁴ Moreover, in most liberal democracies there are permanently residing adults, which do not hold citizenship. Nevertheless I argue that in a liberal democracy this number should be as low as possible and an inclusive approach towards foreign citizens and stateless would be favoured. I argue that a liberal-democratic political system in the case of the restoration of the state after a long period of time, would not simply deny the consequences of being incorporated into another geographical entity. A liberal democratic state, would probably not deny automatic citizenship after independence to people, that settled in the country when the state was *de facto* under the jurisdiction (or part of) of a larger entity. At least, a liberal democratic state would presumably set up easy naturalisation requirements and would encourage these people to become citizens. A legal vacuum of many years concerning the legal status of these people is rather not compatible with liberal democracy. The definition of a liberal democracy is not clear cut it is rather a continuum, where states can be „more” or „less” liberal democratic depending on the issue that is tackled.

7.2 From Gastarbeiter over sans papiers to aliens

As referred to earlier, the handling of stateless or foreign citizen in the territory is not always as unequivocal as liberal democracy theory might predict. In the status of rights of migrant groups quite some similarities to the status of for instance „second class” citizens and non-citizens in an ethnic democracy can be found. The choices some liberal democratic states make in handling different groups of migrant long-term residents should be examined here. In the same way, the attempt is made to locate the non-citizens of Latvia in the notion of the long-term migrant residents in liberal democracies.

⁸³ Parties can be excluded in the case if they have the aim to overthrow basic values of the liberal democratic state. This might be in line with liberal democracy. Nevertheless, even this assertion is not unproblematic, since one may imagine a situation, where a considerable part of the population had no say during the construction of the state system (although living in the state) and thus might be disadvantaged. Their claim to change the order of the state, could from the perspective of liberal democracy be justified.

⁸⁴ This may not be applied for countries (for instance: Canada, Switzerland, Belgium) that encourage political and cultural representation of different ethnic core-groups. Thus not only one dominant group’s culture is promoted. Immigrants to these countries however have not the same rights as the core ethnic groups to have their culture represented.

As respects to liberal democracy, Kymlicka generally distinguishes between two different categories of migrants, which are not viewed as citizens and which from at the beginning of their arrival were also not entitled to citizenship.⁸⁵ These are due to Kymlicka on the one hand irregular migrants (sans papiers), that unlawfully reside in a country and on the other hand temporary migrants, as for instance migrant workers (Gastarbeiter) in Germany (Kymlicka use the term „Metics“ for these people).⁸⁶ From his point of view, these people were not seen as citizens to be, or not even as potential long-term residents at their arrival.⁸⁷ The common way for liberal democracies to handle the prevalence of people excluded from all rights that are connected to citizenship, is in Kymlicka eyes to finally make citizenship available for these people. Solely countries that regard themselves not as migration countries, are prone to view these people as potentially disloyal aliens (Kymlicka means that Germany, Austria and Switzerland fall in this category).⁸⁸ Here the policy towards „metics“ was not to integrate them into the body of citizens, but to get them to voluntarily return or to simply expulse them (he gives the example that in some West German provinces until the 1980's Turkish children and German children were divided into different classes).⁸⁹ Kymlicka reveals the strategy of such countries as the denying of citizenship to keep the people in a: „...precarious legal status within the country, and if they were told repeatedly that their real home was in their country of origin, and that they were not wanted as members of the society, then they would eventually go home.“⁹⁰ To not make citizenship available to these „metics“ or second-class people would in the eyes of Kymlicka disregard the very principles of liberal democracy, because people which are subject to state- decision should also be able to take part in the process in determining the state's policy.⁹¹ Kymlicka even goes so far in stating, that the prevalence of long-term residents that are subject to laws but are denied the right to vote is to create segregation and is undermining the basics of democracy.⁹²

⁸⁵ Kymlicka, Will: „Contemporary Political Philosophy. An Introduction“. 2002, Oxford, p. 357.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ibid.: 358.

⁸⁹ Ibid. A letter sent from the Ministry of Education in 1995 to all school principles of Latvia, resembles this policy. It was said that non-ethnic Latvian children in school age should only be admitted to Latvian-language educational institutions, if at least one parent speaks Latvian. Moreover, the child itself should have a fluent command of Latvian and the Latvian language should be the language of intercourse at home. It was recommended to set up special Latvian language classes in Russian schools. See in: Diatchkova, Svetlana: „Ethnic Democracy in Latvia“. In: Sammy, Smootha [ed.] *The Fate of Ethnic Democracy in Post-Communist Europe*. Budapest, 2005, p. 97. Kolstö maintains that Latvian school authority do not want to many Russian-speaking enrolling in Latvian medium schools, because they fear assimilation in the „wrong direction“, meaning that the Latvian children would start to speak Russian with their Russophone classmates and imitate their behaviour. See in: Kolstö, Pal (2000): Ibid.: p. 119.

⁹⁰ Kymlicka, Will (2002): Ibid.: p. 358-359.

⁹¹ Ibid.

⁹² Ibid.

The question is if Russophones in the Baltic countries fit into one of these categories of „metics“. Whereas the largest part of the Russophone population in the Baltics settled there just after 1940, it is also true that a considerable share of Slavic population came there earlier. In fact, there is a long history of Slavic settlement in the Baltics that goes back several hundreds of years and could actually entitle these people to the status of a „national minority“, a minority which through its long presence on a certain territory may enjoy special rights (rights to language, representation quotas, own emblems...). Generally speaking the history of Latvia is marked by a long time of multi-ethnicity. Communities of Germans, Gypsies, Jews, Poles, Russians, Belorussians and Estonians settled the lands that nowadays make up Latvia during the 13th and 19th century.⁹³ A thousand years ago the first ethnic Russian merchants settled in Latvia to trade with the Balts and to get access to the trade links across the Baltic Sea.⁹⁴ A large share of ethnic Russian settlers were peasants that came in the 17th century to Latvia because of religious or political persecution in their homeland (most of them Russian were Old Believers –a religious group- that settled in the rural districts in Latgalia in south-east Latvia).⁹⁵ In 1721 Latvia was incorporated into Tsar-Russia and as a result more Russian-speaking people migrated to Latvia. By the end of the 19th century 12% of the population considered Russian as their mother tongue (including ethnic Russians, Ukrainians and Belorussians).⁹⁶ Dobson gives an insight into the ethnic composition of these times, reporting that at the Russians Empire census in 1897, 68% of the population indicated Latvian as their mother tongue, this number fell to 60% before World War 1 (because of the influx of mostly ethnic Russians) and rose to 80% Latvian speakers in the period after the First World War.⁹⁷ Usually, it is often preferred to provide with data for the time shortly before the Second World War with the highest share of ethnic Latvians of about 77% in 1935 and then to compare it with figures from 1989 of 52%.⁹⁸

Another reason which might make the definition of ethnic minorities in Latvia as „metics“ problematic is the fact that Latvia was *de facto* a Soviet Republic in the Soviet Union. Consequently, those not in favour of the Latvian restoration policy argue that citizens of the Soviet Union coming to Latvia, did not cross a state border (merely they entered

⁹³ Dobson, John: „Ethnic discrimination in Latvia“. In: Camille, O'Reilly [ed.] *Language, Ethnicity and the State*, Vol.2, London, 2001, p. 157.

⁹⁴ Olsson, Christine: „Det är inte lätt att bli balt. Om den ryska minoriteten i Lettland“. Thesis in Political Science, Södertörn University College, Spring term 2002, p.1.

⁹⁵ Ibid.: p. 2.

⁹⁶ Hellström, Helena: „Den ryska minoriteten i Lettland- En studie om medborgarskap, integrering och identitet“. Thesis in Cultural Geography, Södertörn University College, Spring term 2004, p. 2.

⁹⁷ Dobson, John: Ibid.: p. 157.

⁹⁸ See for example in: Muižnieks, Nils: „Latvian-Russian Relations: Domestic and International Dimensions“. Riga, 2006, p. 13.

another Soviet Republic in good faith) when they were settling in Latvia. Thus, in this sense people that came after the 17th of June 1940 did not perceive themselves as immigrants but as part of a bigger political entity, the Soviet Union.⁹⁹ Apologetes of the legal continuity concept reply that the annexation of Latvia was an illegal act, never accepted by Latvia and thus all people moving to Latvia after 1940 (if no interwar citizens or their descendants) were illegal colonisers that settled in an occupied country. At the same time, only the aggregate body of interwar-citizens, was the only rightfully citizenry of Latvia. Soviet settlers and their children had no right to the county and Latvian nationalists held that they should be sent „back” to their ethnic „homeland”.

A third reason which makes the classification as „metics“ at least complicated is that ethnic Latvians in the Latvian SSR (and also the small part of minority interwar-citizens) and Soviet-era settlers were holding the same citizenship *de jure* and *de facto* (although the legal continuity thesis implies that under this period *de jure* the interwar body of citizens continued to exist, this had no practical outcomes for the equal citizenship in the Soviet Union). In difference from the citizens of interwar Latvia, Soviet settlers were loosing Soviet Union citizenship and becoming stateless (or citizens of a state that was not longer existing) and later most of them non-citizens. This is fundamentally differing from the situation of most of the „metics“, who in most cases are, at least formally, not stateless.

What also may implies that Soviet-era settlers in Estonia and Latvia represent a distinctive group is the creation of a new legal status that applies for them: the notion of non-citizen. Due to the *Law on Citizenship* from 1998 a non-citizen is a person: „... who, in accordance with the law; On the Status of a Citizen of the Former USSR who does not have Latvian Citizenship or the Citizenship of Another Country’, has the right to a non-resident’s passport issued by the Republic of Latvia.”¹⁰⁰ The latter law defines non-citizens as following:

The subject of this Law shall be those former USSR citizens who live in the Republic and who are temporarily absent (education, labour contract, serving sentence etc.) who prior to July 1, 1992 lived and without term limitation, irrespective of the status of a dwelling space indicated in the registration ´, were registered in the

⁹⁹ Kymlicka, Will: „Western Political Theory and Ethnic Relations in Eastern Europe”. In: Will Kymlicka [ed.] *Can Liberal Pluralism be Exported? Western Political Theory and Ethnic Relations in Eastern Europe*. New York, 2001, p. 76.

¹⁰⁰ The Latvian *Law on Citizenship* (1998), Article 3, Section 1:
<http://unpan1.un.org/intradoc/groups/public/documents/unpan018407.pdf> (05.06.2008).

territory of Latvia and who are not citizens of Latvia or another State as well as their minor children if they are not citizens of Latvia or another state.¹⁰¹

The people, who fall into this category have the right to a Latvian passport (in the English translation of these passports, non-citizens are termed „aliens“). Under this law they can freely enter and leave Latvia. Non-citizens have also the right to naturalise. They have not the same status as stateless, but are in contrast also not treated as citizens of a foreign country. The very idea of a non-citizen is a rather unique phenomena existing only in Latvia and Estonia.

7.3 Ethnic Democracy as a Model

The model of ethnic democracy is relatively new among research done on democracy. It was included into this study, because it is a useful enrichment to the already existing concepts of liberal and consociational democracy¹⁰².

It is clear from the very name of the model of ethnic democracy that it is in contrast to liberal democracy, the relation of ethnic belonging and democracy is central in this ideal type. From my point of view, fewer countries can be defined as ethnic democracies in the sense presented here, than countries that one could label liberal democracy.

As with every model, also the model of ethnic democracy is not uncontested. The most fundamental critique comes from those, who argue that interweaving ethnic origin and democracy disqualifies a country from being democratic.¹⁰³ The reason for this is due to Ghanem that democracy always prefers equality to ethnic affiliation and denies unequal treatment of citizens based on ethnic origin.¹⁰⁴ In consequence, Ghanem concludes that the classification of countries as democratic, merely through free elected governments and a separation of power is not sufficient in today's world, rather the equality of citizens as individuals should be emphasised more.¹⁰⁵ Also Rouhana and Yiftachel are highly critically towards the very idea of merging two concepts together: „...the ‚ethnos‘ (selective association

¹⁰¹ *On the Status of a Citizen of the Former USSR who does not have Latvian Citizenship or the Citizenship of Another Country* (1995), Article 1, Section 1, In: Legislative Acts on the CIS and the Baltic States on Citizenship, Migration, and Related Matters. In: International Organization for Migration [ed.] Moscow, 1996.

¹⁰² A consociational democracy is a political system, where several ethnic groups in a country enjoy group rights, autonomy in certain questions and legally guaranteed political representation.

¹⁰³ Ghanem, As'ad: „State and Minority in Israel: The Case of Ethnic State and the Predicament of its Minority”. In: *Ethnic and Racial Studies*, Vol. 21 (3), 1998, p. 431. Ghanem prefers the term „ethnic state“ instead and refers hereby to countries like Israel, Turkey, Latvia, Lithuania, Estonia, Canada (until late 1960's), Iraq and Iran.

¹⁰⁴ *Ibid.*: p. 429.

¹⁰⁵ *Ibid.*: p. 443.

by origin) and the ‚demos‘ (inclusive association by residence or citizenship).¹⁰⁶ Therefore, ethnic democracy, as a theoretical model (or ideal type) is for these authors as inconsistent as the oxymoron ‚hot ice‘.¹⁰⁷

Nevertheless these critics do agree with a lot of results found by Smooha concerning the reality of the ethnic Jewish domination in today’s Israel, but they strongly disagree to categorise this as a democratic system (and ethnic democracy as a whole).

The following features describe ethnic democracy. Not every feature has to be met in order to qualify a political system for ethnic democracy. The ideal type represented here, is entirely based upon Smooha’s ethnic democracy model.¹⁰⁸

First of all, an ethnic group has the exclusive right to a territory and this enables inequality of status. This results in a distinction between core and non-core members. For most members and especially for the leaders of the nation-building group, the core-group’s interests are of primary concern.

Secondly, even if a non-core member is granted citizenship, this person will not have fully equal rights with a person from the core-group. Additionally, the state is trying hard to limit the access to citizenship of non-core representatives. The titular members enjoy the care of the state even when living in the diaspora. Assimilation of non-core population may be allowed, but the opposite, assimilation and de-population of the titular ethnic group has to be prevented at all costs.

Thirdly, the state symbolises the right of the titular ethnicity to form and to rule an independent state. The territory of the latter is the exclusive homeland of the core-group, as with the state apparatus that serves the goals of the core-people. Everything in this state that has something to do with status, symbolises the core-people: „...official language, religion, culture, institutions, flag, anthem, emblems, stamps, calendar, names of places, heroes, days and sites of collective commemoration, laws (especially those regulating naturalization, immigration and ownership of land and business) and policies are biased in favor of the core ethnic nation, and members of the core ethnic group expect and receive a favored status.”

Core-members are the first class citizen and only they have the possibility to contribute to the common good. Some of the non-core group can also get access to this possibility, if they prove themselves ‚good citizens‘. The state is no neutral broker; it clearly

¹⁰⁶ Ghanem, As’ad; Rouhana, Nadim; Yiftachel, Oren: ‚Questioning ‚Ethnic Democracy‘: A Response to Sammy Smooha’. In: *Israel Studies*, Vol. 3 (2), 1998, p. 264.

¹⁰⁷ Ibid.

¹⁰⁸ Smooha, Sammy: Ibid.: pp. 25-29.

sides with the core ethnic people. No common dialogue in society is conducted in order to agree upon an agenda in terms of identity, culture and language.

Preferential treatment for the core-members is provided to ensure the core-peoples support for the projects of the state and to protect them from assimilation. Ethnic nation-building, identity creation and defence against actual or imagined threats stand high on the agenda. Smooha holds that mass mobilisation is characteristic to ideological societies, with comparatively weak civil societies.

Smooha classifies ethnic democracy as a democratic system, because it lives up to the democratic principle to extending individual rights to all permanent residents in the state territory. Smooha argues that the procedural minimum definition of democracy is the granting of political and individual rights to all permanent residents (in an ethnic democracy in difference from most liberal democracies, even group rights are given).¹⁰⁹

Political rights (for instance: the right to vote/stand for elections) are regarded by the state as extremely central and therefore should be restricted as much as possible. But as mentioned before, non-core members are in fact granted political rights. Principally it is possible for non-core individuals that are not citizens to naturalise under rigorous conditions. This is due to the state's: „...commitment to democracy, international pressures or other pragmatic reasons. Extension of political rights for all distinguishes ethnic democracy from non-democracy.“ Individual rights (for instance: social rights, civil liberties) for non-core members are often less protected and not as extensive as those of the ethnic core-group. The right of non-core members to purchase land is often subject to such limitations.

In terms of collective rights (for example: minority school system, cultural/religious organisations), ethnic democracy implies that the state is mono-ethnic and consequently minorities are not accepted as national minorities (but nevertheless limited collective rights are available). Identity expression of the non-core group faces restriction from the state. The ties to the external homeland, as well as the school curricula of history and literature of the minority population, are under surveillance of the authorities and have to be in line with the mono-ethnic agenda of the state.

It is possible for non-titular groups to utilise: „...vote, petitions, mass media, courts, political pressures, interest groups, lobbies, demonstration, strikes, sit-ins and other legal means to advance their status without having to face repression by the state and violence by the core ethnic nation.“ If their protest nevertheless is believed to cause too much unrest, protest can face limitation.

¹⁰⁹ Ibid.: p. 8, p. 22.

The minority population is perceived by the government as a threat: „...demographic increase and preponderance (swamping), excessive accumulation of political power, unfair economic competition, downgrading of the national culture, dilution of the ‘pure ethnic stock’, a national security risk, loyalty to an external homeland, subversion, unrest and instability.“ In an ethnic democracy the perceived threat is a cornerstone in the political calculation of the state. On the whole, in an ethnic democracy non-core groups members experience personal and institutional discrimination and are believed to not identify with the state.

The researchers Linz and Stepan also contributed to a better understanding of political systems and the relation to ethnicity. But in contrast to Smootha, their model is not trying to categorise ethnic domination as democratic or as diminished form of democracy.

The authors argue that in a multinational state - being a former undemocratic state and attempting to achieve democracy - the political elite might be tempted to initiate ‘nationalising policies’.¹¹⁰ These policies might not violate human rights as protected by the Council of Europe, but could have the combined effect of diminishing the chances of the consolidation of democracy.¹¹¹ The model of ‘nationalising policies’ is summarised in five arenas of polity:¹¹²

What concerns the state bureaucracy a fast switch to a single official language could decrease the participation of other groups in the state bureaucracy and the access to it’s service. In the arena of law the legislation could privilege various customs, practices and institutions of the core-ethnic group. In the sphere of economy the state-bearing ethnicity could be granted special or exclusive rights in a process of privatisation through land and voucher distribution. The arena of civil society (for instance: schooling, mass media) could face restrictions in terms of language usage. When it comes to the political society, excluding citizenship laws are able to lead to an overrepresentation of the core group.

Linz and Stepan argue that a real will to democratic consolidation would require a more consensus-orientated policy and not ‘nationalising policies’ in all five arenas. On the other hand they reason that even in this situation a development to democracy is still possible, if the state changes the policy.

Linz and Stepan designed this model in regard to Latvia and Estonia. It shows a lot of similarities with Smootha’s model of ethnic democracy. One major difference is to be found in

¹¹⁰ Linz, Juan; Stepan, Alfred: Problems of Democratic Transition. Southern Europe, South America, and Post-Communist Europe, Baltimore, 1996, p. 35.

¹¹¹ Ibid.

¹¹² Ibid.: p. 37.

the political arena, where the authors hold that exclusive citizenship laws, as a tool to reach an ethnic core-group majority is an available option. The second distinguishing feature is that in the concept of „nationalising policies“ the point of departure is a system that is not regarded as a democratic one, but seen as an undemocratic system, which strives to become democratic. Their model in general is more dynamic and tries to describe the possible alterations over the course of time.

Another scholar, who investigated the citizenship policy of Latvia from a political perspective, was Graham Smith. He was a British political geographer and based his understanding of ethnic democracy largely on the model promoted by Smootha and likewise regarded it to be a democratic one.¹¹³ However, Graham modifies Smootha´s concept to apply it to Latvia and Estonia, and holds that the hegemony of the core-group is ensured by the exclusion of non-core residents from political rights and through the implementation of language laws.¹¹⁴ The exclusion from political rights, through not granting automatic citizenships to all permanent residents in 1991 is in Smith´s eyes coherent with a modified form of ethnic democracy.

The Israeli scholar Peled calls Israel an ethnic democracy and agrees largely with Smootha in this regard.¹¹⁵ As the main tool of establishing the state of ethnic democracy, he views the institution of citizenship, which is divided into republican citizenship (Peled means thereby the notion of citizenship through ethnicity) status for Jews and into liberal citizen status for Arabs.¹¹⁶ In Peled´s understanding Jews are the holder of a republican, a partly descriptive citizenship, which excludes others from the right to be part of the „republican“ community.¹¹⁷ The republican kind of citizenship enables Jews to actively contribute to the protection and promotion of the common good and allows them to participate in the state.¹¹⁸ In contrast, liberal citizenship for the minority means merely that the Arab (or Palestinian) minority has a bundle of rights, but is refrained from actively participating in the state affairs.¹¹⁹ Peled concept of liberal citizenship is has strong parallels with the notion of a „second class citizen“. He concludes that through the development of liberal citizenship for

¹¹³ Smith, Graham: „The Ethnic Democracy Thesis and the Citizenship Question in Estonia and Latvia“. In: *Nationalities Papers*, Vol. 24 (2), 1996, p. 200.

¹¹⁴ Ibid.

¹¹⁵ Peled, Yoav: „Ethnic Democracy and the Legal Construction of Citizenship: Arab Citizens of the Jewish State“. In: *American Political Science Review*, Vol. 86 (2), 1992, p. 432.

¹¹⁶ Ibid.

¹¹⁷ Ibid.: p. 434.

¹¹⁸ Ibid.: p. 433.

¹¹⁹ Ibid.

Arabs, Israel was able to: „...maintain a stable democratic regime in the context of acute conflict.“¹²⁰

As with all models, Smooha's model also faces some problems. It is important to know that he created this model to better locate the political system of Israel. Smooha applies his model on Israel as in the borders of 1948 (without Gaza stripe and West Bank). Arab minority population in these boundaries was granted automatic citizenship (while also a great number of Arabs and Palestinians were forcibly driven out of the country).

One of the model's main assumption bases on just this fact, that citizenship is granted to everybody. „Ethnic democracy is a democratic political system that combines the extension of civil and political rights to permanent residents who wish to be citizens with the bestowal of favored status on the majority.“¹²¹

Taking a close look at Israel, it becomes clear that Smooha's model is only including the territory of Israel in the year 1948. But in fact, Israel is controlling a much larger territory today, since the Six-Days War in 1967. These occupied territories are the Gaza-stripe and the West Bank, which are to a great extent depending on Israel and are not able to form independent states without the consent of Israel. The people living in the Gaza-stripe and in the West Bank are stateless. Therefore one can say that this people are actually the non-citizens of Israel as a large share of non-ethnic Latvians and Estonians are non-citizens as well.

All together, the strength of the model of ethnic democracy lies in its ability to categorise political systems that are lying in the continuum between democracy and non-democracy. Characteristic for this model is that one ethnic group explicitly has the main claim to a country and in the sense of the word owns the country. Consequently, the inequality of rights is justified (at least implicitly). The state is not a neutral broker for the interest of the different groups in the state, but clearly is created for the sake and the benefit of a certain group. Individual rights of non-core members are subject to violations and discrimination. Symbols like flag and anthem are tied to the core-group. The assimilation of the core-group into other ethnic groups has to be prevented at all costs, since a „pure“ core-group is desired. To discourage ethnic mixing with non- titulars and to win the core-group for it's projects the government constantly presents the „other“ ethnic groups as threat. Nevertheless, countries that fit in this category often have a wish to become (more) democratic while they do no accept that equal democratic rights should be held by all long-term residents.

¹²⁰ Ibid.: p. 440.

¹²¹ Ibid.: p. 21.

Unequal treatment is a central ingredient of ethnic democracy. Disagreement on how this is realised exists between the various researchers. On the one hand side, the fact of extending citizenship to all minority groups (but a „second class citizenship” for minority members) is a key feature of ethnic democracy as Smooha sees it.

Other researchers seem to favour the possibility that through not extending citizenship, unequal treatment and the favouring of one specific group can be reached, while also labeling that ethnic democracy. Hence not the creation of unequal citizenship is the key feature, but the notion of not granting citizenship to other ethnic groups (which is also easier to justify before international organisations). Generally it is agreed on, that the general access to citizenship is made more difficult for non-core members.

For the purpose of my work I assume that ethnic democracy can be implemented through not extending citizenship. To me the discussion, if ethnic democracy is genuinely democratic, is of secondary concern. Most of all, the model as such and the features it contains are of importance, since these features can give a good overview over a countries ethnic politics. This I suppose is the models strength, when analysing the citizenship policy of Latvia.

8. New States, Old States, Restored States and the Delimitation of the Citizenry

With the regard to new emerging countries or restored countries it is essential to pose the question, which possibilities these new states have in creating a new demos. The relation of already existing countries to their demos and the replenishment of their citizenry contributes to a better understanding of the choices made by new states.

In already existing countries the questions governments are confronted with (when the extension of citizenship is concerned) is under which regulations immigrants and their children, who are often citizens of a foreign state, should be included into the already existing citizenry.¹²² The second questions these states have to solve is as to how the replenishment of the citizenry should be solved.¹²³ Usually, in this context questions like for instance: Should citizenship be conferred through descent or by the fact that a person is born on the state territory, or a mixture of both concepts together? What happens in the case of intermarriage

¹²² Brubaker, Rogers: „Citizenship Struggles in Soviet Successor States”. In: *International Migration Review*, Volume 26 (2), 1992, p. 277.

¹²³ Ibid.

between a citizen and an alien? How to deal with the fact that a child is born to citizens, but outside the country?

Brubaker argues that new states (or newly established) have to face exactly the same questions, but in addition have to handle another question: Who will constitute the initial citizenry?¹²⁴ Brubaker goes on that most commonly new states choose the principle of *jus soli*, to determine the citizenry.¹²⁵ The latter recruitment of new citizens in the new state can be based on the principle of descent (*jus sanguinis*), like in continental Europe it is often common practice. Most new states opt for an inclusive variant of *jus soli* that means that all permanent residents at the time of independence are regarded as citizens, besides citizens of foreign states.¹²⁶

The Baltic case is somewhat different, because the three Baltic countries: Lithuania, Latvia and Estonia are not new states in the traditional sense, rather these countries were already independent states in the interwar period. So how did these countries then handle independence?

Brubaker provides a schematic model of options available for new and restored states:¹²⁷

- a) The new state aims to create a whole new citizenry, commonly on the more inclusive principle of *jus soli*. This means that all permanent residents are included in the citizenry.
- b) The restored state, meaning a state that experienced a time of independence previously, sees it as the main task to restore the initial body of citizens (those who were citizens in the period of independence). Only citizens of the initial state and their descendants are perceived as rightful citizens. Persons, who arrived after the state lost its independence, are merely residents (even if they were born in the country) and not considered part of the original citizenry and thus have no right to (automatic) citizenship, because they are „aliens“.
- c) The third model is a mixture of the two above. Still it prevails solely in the case of restored states. The core citizens of this state are the ones, who were part of the state before independence was lost. However, due to the changes that occurred (change of composition of population), the inclusion of only initial citizens is not seen as

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Ibid.: p. 278.

¹²⁷ Ibid.: p. 279.

sufficiently inclusive and therefore parts of the „alien” population are granted automatic citizenship.¹²⁸

This model of Brubaker serves as a tool to be able to understand the logic of the Latvian restoration. It is one of the few theories that connect the issue of citizenship with the situation, in which a state is restored. It is fruitful to discuss the different approaches a „restored” state can choose in order to delineate its initial citizenry, since this is the crucial point in the Latvian and Estonian citizenship legislation.

9. Ideational and Effect Analysis of Latvian legislation

9. 1 The Latvian Constitution

As in my definition in the part on terminology, language and ethnicity in Latvian case are closely related. Because of this, statements regarding language will be analysed as well, since the point to the titular nation. The word „Saeima“ will be used, which refers to the Latvian name for the parliament situated in Riga.

The Latvian constitution came into force for the first time during Latvia’s first independence between the First and the Second World War on the 7th of November 1922. Then, on the 4th of May 1990 the Council of the Latvian Soviet Republic put this Constitution partly into force again. On the 6th of July 1993 during the first assembling of the Saeima the Constitution came into full force.

9. 2 Ideational Analysis of the Latvian Constitution

The following question that should be answered here:

What role is ethnicity playing?

How are the rights of citizens and non-citizens addressed? How are citizens or non-citizens addressed?

Due to the Constitution, Latvia is an independent democratic state.¹²⁹ The sovereign power of Latvia is: „...vested in the people of Latvia.”

¹²⁸ A variation of this type of restoration could be, to apply the legal provision of the old state and in this way on the one hand provide for restoration through legal continuity and on the other hand to be more inclusive. The Latvian *Law on Citizenship* from 1919 for instance, passed after independence is much more inclusive than the new *Law on Citizenship* from 1994. See several articles of the *Law on Citizenship* from 1919, In: Daina Stukuls Eglitis: „Imagining the Nation. History, Modernity and Revolution in Latvia”. Pennsylvania, 2001, p. 109.

The right to vote and to be elected, as stated in article 8 and 9 are privileges of Latvian citizens. In article 18 of the previous constitution it was stated that: „The Saeima itself shall review the qualifications of its members.” On the 30th of April 2002 the some amendments were added. An individual, when elected to the Saeima shall acquire the mandate of a member of Saeima, only if this person gives the following solemn promise:

I, upon assuming the duties of a member of the Saeima, before the people of Latvia, do swear (solemnly promise) to be loyal to Latvia, to strengthen its sovereignty and the Latvian language as the only official language, to defend Latvia as an independent and democratic State, and to fulfil my duties honestly and conscientiously. I undertake to observe the Constitution and laws of Latvia.

Article 21 of the constitution that was initially only concerning internal operations: „The Saeima shall establish rules of order to provide for its internal operations and order.” was later on the 30th of April 2002 amended with the sentence: „The working language of the Saeima is the Latvian language.”

In article 37 of the original version of the constitution from 1922 it was stated that only a person who reached the age of 40 could become president. With the amendments of December 1997, it was added that for the duty of president only citizens are eligible. In article 40 of the constitution, the president swears an oath before the parliament, where he expresses that his work shall serve the welfare: „...of the people of Latvia...” and that he shall: „...promote the prosperity of the Republic of Latvia and all who live here...”.

The provisions described in the following part regard fundamental human rights and were amended to the Constitution in 1998. In Article 91 it is said that: „All human beings in Latvia shall be equal before the law and the courts.” In the same article the issue of discrimination is taken up: „Human rights shall be realised without discrimination.” In the next articles the word „everyone“ is often used to describe the target group of constitutional provisions. For example, according to article 97: „Everyone residing lawfully in the territory of Latvia has the right to freely move and to choose their place of residence.” Article 98 contains the same formulation: „Everyone has the right to freely depart from Latvia. Everyone having a Latvian passport shall be protected by the State when abroad and has the right to freely return to Latvia. A citizen of Latvia may not be extradited to a foreign country.“ Article 101 concerns elections and administration:

¹²⁹ *The Latvian Constitution* : Article 1, Section 1: <http://www.humanrights.lv/doc/latlik/satver~1.htm> (05.06.2008).

Every citizen of Latvia has the right, as provided for by law, to participate in the activities of the State and of local government, and to hold a position in the civil service. Latvian citizens who enjoy full rights of citizenship shall elect local governments. The working language of local governments is the Latvian language.

Article 102 describes most of all political rights: „Everyone has the right to form and join associations, political parties and other public organisations. “In article 104 the right to receive an answer from the State municipality in Latvian is stated: „Everyone has the right to address submissions to State or local government institutions and to receive a materially responsive reply. Everyone has the right to receive a reply in the Latvian language.“ Property, as far as the Latvian Constitution is concerned is open to „everyone“:

Everyone has the right to own property. Property shall not be used contrary to the interests of the public. Property rights may be restricted only in accordance with law. Expropriation of property for public purposes shall be allowed only in exceptional cases on the basis of a specific law and in return for fair compensation.

Due to the provisions of article 106 employment is principally open to everyone, depending on the individual’s qualification: „Everyone has the right to freely choose their employment and workplace according to their abilities and qualifications.“

In article 114, for the first time in this Constitution ethnicity is explicitly mentioned: „Persons belonging to ethnic minorities have the right to preserve and develop their language and their ethnic and cultural identity.“

9.3 Effect Analysis of the Latvian Constitution

The effects concerning these two questions should be analysed here.

What role is ethnicity playing in the constitution of Latvia?

How are citizens or non-citizens addressed?

In this part I want to highlight some things that are necessary for the understanding of the Latvian citizenship policy from the angle of the Constitution. As in most countries, in Latvia, only Latvian citizens are allowed to take part and stand for office in national elections. This means that the opportunity of non-citizens to have a voice in national elections is not given. The chances that their interests are represented in politics decreases.

Considering the oath future members of Parliament have to swear, the importance of language becomes obvious. This provision was introduced in 2002. It means that from the full entering into force of the constitution in 1993 until 2002, the oath to protect Latvian as the

only state language did not exist.¹³⁰ This was changed only two years before Latvia entered the European Union.

Article 21 was also changed in 2002 and was prior to amendment only concerning administrative regulations of the Saeima. With the amendment it was added that Latvian is the working language of the parliament.

As stated above, in my understanding of ethnicity, language is an integral part of ethnicity. Latvian is one of the languages widely used but for many other people, Russian is the mother tongue. This language group is not addressed in the constitution. A large minority group is living in Latvia, but the Latvian political elite prefers to prioritize a one-community state on the conditions of the Latvian political elite.¹³¹

However, in many constitutions provision claim a sole state language, despite the existence of large ethnic minorities (and also linguistic minorities). In other countries for instance members of parliament swear an oath upon the constitution and therefore implicitly the acceptance of a single state language is included. Nevertheless in Latvia, the link between oath and language is much more explicit and obvious than in countries were merely an oath on the Constitution is sworn.

After 1997 only a citizen could become president. Moreover the president should not have dual citizenship. In contrast to the provisions, where the status of the Latvian language is strengthened and thereby automatically the position of ethnic Latvians as well, the oath the presidents swears before the parliament contains no ethnic markers. The president declares that he or she will work for the welfare of all people living in Latvia. This seems to be a rather inclusive approach. Interestingly, the question whether aliens, stateless or non-citizens are also understood by this statement is not addressed.

In relation to the requirement that the president of Latvia should not have dual citizenship, it would be of interest to know if Vaira Vīķe-Freiberga renounced her Canadian citizenship in 1999, when she was elected president (and served two terms). At the time she

¹³⁰ Shortly before this amendment was made, the requirement for politicians, to know Latvian on the highest level had to be cancelled due to pressure from Nato representatives, who saw this requirement as not in line with the principles of democratic elections. See in: Interview with Ilze, Brands-Kehris (Head of the Human Rights Centre in Riga), 12.05.2008.

¹³¹ Valdis Birkavs prime minister in 1993 argues against a two-community state: „...the creation of a two-community rather than a nation-state will entail the introduction of a second state language, of equal political rights, and the possibility of dual citizenship in the future...“. Quoted in: Kolstó, Pál; Tsilevich, Boris (1997): *Ibid.*: p. 367.

became president, she had not lived in Latvia for 53 years.¹³² Nevertheless her stance on ethnic issues seemed strong: „Latvia is the land of ethnic Latvians and their ancestors“.¹³³

One can conclude, if Latvia is the home for ethnic Latvians, other ethnic groups do not have the same right to the country, even if they lived there for a long time.

Apart from that, article 91 expresses that all human beings are equal before the law and that human rights shall be realised without discrimination. The utilisation of the term „everyone“ is common in most of the provision in the part on fundamental human rights. This can on the one hand side be seen as inclusive, but on the other hand side it is not really clear if all people living in Latvia actually are addressed.

The provision of article 97 is concerning the freedom of movement. Before the law on the status of former USSR citizens who hold no citizenship was passed, the freedom of movement of stateless was greatly inhibited. Stateless were subject to unsure living conditions and were not allowed to change their domicile and to travel abroad without permission. The right to freely travel and to be protected and not extradited by the Latvian state is concerning everybody with a Latvian passport.

The formulation „Latvian passport“ leaves wide room for speculation. Is this only referring to holders of Latvian citizenship or is the issued non-citizens passport also to be identified as a „Latvian passport“? Due to Kehris, non-citizens with an „Alien passport“ enjoy consular protection of Latvia, but in difference from citizens they can be subject to deportation in cases when this is foreseen by the law.¹³⁴

Only citizens are entitled to partake in the activities of the state and local government. Explicitly it is mentioned here that the participation in the local elections is a privilege of citizens. For instance in Estonia, where the restoration principle is equally implied, non-citizens are allowed to partake in local elections, which led to a greater representation of their interests.¹³⁵

In addition to that, in article 101 it is stated that wide areas of occupation within the state are only accessible to citizens.

The working language in state institutions is Latvian. Formally no ethnicity is mentioned in this article, non-Latvian citizens and ethnic Latvian citizens seem to have the

¹³² After the Soviet troops entered Latvia in 1944 she, as a small girl flew with her family to Germany. Most of her life she spent living in Canada.

¹³³ Tsilevich, Boris; Tatiana Bogushevich: „Many Faces of the Monster“. *Xenophobia in Central Eastern Europe*, Unpublished seminar paper of a conference held June 21-22, 2002 in Budapest, p. 14.

¹³⁴ Kehris, Ilse; Puce, Ilvija: „Nationhood and Identity“. In: Juris Rozenvalds [ed.] *How democratic is Latvia: audit of democracy*, Riga, 2005, p. 22.

¹³⁵ Van Elsuwege, Peter: „Russian-speaking minorities in Estonia and Latvia: Problems of Integration at the Threshold of the European Union“. In: ECMI Working Paper, Vol. 20, Flensburg, 2004, p. 28.

same rights. Merely the non-citizens appear to have disadvantages. However, it is clear that even non-ethnic Latvian citizens that do not have Latvian as a mother tongue or do not have a very good command of this language will have it dissimilar harder to enter the civil job sector than their ethnic Latvian counterparts, since for every job a Latvian language certificate on a certain level is absolutely necessary (this is to a great extent also true for the private sector).¹³⁶

Article 102 dealing with the formation and joining of organisations gives „everyone“ the right to found various kinds of organisation. Fact is that non-citizens and also aliens do not have any right to form political organisations (political parties with more than 50% non-citizens are not allowed either).¹³⁷ The provision is besides this, interesting in regard of the communication with the state authorities. Principally every person has the right to receive a reply on his or her request. But only the right to receive an answer in Latvian is stated in this article. Other languages are not mentioned.¹³⁸ The new *Latvian State Language Law* from 1998 completes this provision. Every request to a municipality on the territory of Latvia should be in Latvian. In the State Language Law from 1998 it is stated that all state institutions: „... shall accept and examine documents from persons only in the State language, except for cases set forth in paragraph 3 and 4 of this article and in other laws.“¹³⁹ If the applicant has no sufficient command of Latvian, he has to enclose an authorised translation certified by a notary.¹⁴⁰ Furthermore all documents in languages other than Latvian that were issued before 1992 are subject to certified translation. This is a problem for people that do not have a good written command of Latvian. Their ability to communicate with the municipalities gets more costly or does not function at all, due to a lack of means to hire a translator. This can severely limit these persons to exercise their equal rights.

In the articles 105 and 106 „everybody“ has the right to own property and to freely choose an occupation according to the personal qualification. The rights of non-citizens are

¹³⁶ Круминя, М.: „Интеграция Этнических меньшинств в Латвийской Республике“. Рига, 1997, с. 59. [Kruminja, M.: „The Integration of Ethnic Minorities in the Latvian Republic“. Riga, 1997, p. 59.]

¹³⁷ See for the differences of citizens and non-citizens in force: The Latvian Greens European Free Alliance Party: http://www.pctvl.lv/?lang=en&mode=party&submode=background&page_id=235 (09.06.2008).

¹³⁸ Aleksej Dimitrov holds that this is one of the biggest problems in today's in Latvia, because it severely restricts all communication with the authorities to the Latvian language of those who have a not sufficient command of the state language. See in interview with Aleksej, Dimitrov (Chairman of the Latvian Human Rights Committee), Riga, 06.02.2008)

¹³⁹ See in: *The Latvian State Language Law*, Article 10, Section 2. See in: *The Latvian State Language Law (1998) In: „Implementation of the Latvian State Language Law. A Practice Guide for the State Language Inspectors“*. In: OSCE High Commissioner on National Minorities [ed.] 2006, p. 230. Boris Tsilevich argues that this in actual terms is a prohibition of the usage of other languages than the state language in written communication with state- municipal authorities and enterprises. See in: Interview with Boris Tsilevich in Riga, 12.05.2008.

¹⁴⁰ *The Latvian State Language Law*, Article 10, Section 3: Ibid.: p. 230.

restricted, since their right to acquire land is limited and there are several restrictions on the occupations they can exercise.

In article 114 of the Constitution for the first time direct reference to ethnicity is made. It is stated that ethnic minorities have certain rights. It is mentioned there, that they have the right to preserve their identity and to develop their language. There is no explanation in which ways these rights should be realised.

Given the overall importance of a Constitution, it astonishes that non-citizens, stateless and aliens are not mentioned in this Constitution, although they constitute a relatively big part of the population. One could interpret that they are nevertheless included through the usage of „everybody“ in some articles of the constitution. Putting the rights that virtually everybody should enjoy, into the picture of the Latvian reality, it becomes clear that rights „everybody“ should have only partly are available for non-citizens, stateless and aliens. Thus the only possible conclusion is that only citizens are actually referred to.

Thereby, in the year 2008, 18,4% of the population is not addressed in the Constitution.¹⁴¹ Direct reference to ethnicity is only made once in article 114 that deals with certain rights ethnic minorities have. However indirect reference to ethnicity is made several times, for instance through the strong emphasis of the Latvian language as only state language. Moreover, no explicit minority is addressed, and it is unclear whether for example non-citizen minorities enjoy the rights provided in this constitution. In the overall picture, taking into account the conclusion that was drawn before, minority rights are only granted to citizens.

9.4 The Republic of Latvia Supreme Council Resolution: On the Renewal of Republic of Latvia citizens rights and fundamental principles of naturalisation 1991

As early as 1988, the first claims of independent Latvian citizenship (independent from Soviet citizenship) arose.¹⁴² Three major questions had to be solved by the Latvian legislators: who should automatically become citizen of Latvia? What legal body is authorised to decide this matter? If the matter of citizenship (and other fundamental matters) should be decided by a new reestablished Saeima or a referendum, who would be allowed to take part in this referendum?¹⁴³

¹⁴¹ My own calculations (aliens and non-citizens are calculated together) based on the data from the Naturalisation Board of Latvia: <http://www.np.gov.lv/index.php?id=469&top=469> (06.06.2008).

¹⁴² Brubaker, Roger: Ibid.: p. 283.

¹⁴³ Ibid.

The 3rd of March 1991 a referendum on independence was conducted in Latvia, as a counterpoint to the all-union poll that was held the 17th of March 1991.¹⁴⁴ 73.7% of all voters favoured Latvia's independence from the Soviet, while the voter turnout was 87.6%.¹⁴⁵ Although during this referendum ethnicity was not to be stated by the voters on their voting sheets, it is widely assumed that the vast majority of ethnic Latvian voted for independence, while non-Latvians did the opposite. In fact, assumptions about the voting behaviour of non-ethnic Latvians differ a lot. Zepa estimates that about 26% of Russophones voted for independence.¹⁴⁶ Karklins estimates that roughly 49% of Russophones cast their ballot in favour of independence.¹⁴⁷ Kolstø provides estimation from the leader of the Scandinavian Helsinki Commission that 60% of those using Russian-language ballots were in favour of independence.¹⁴⁸ These numbers are important here, since they are often used to measure the loyalty to the Latvian state. It is often anticipated that minorities were and are envious to the state and thus potentially endanger Latvian independence. Consequently this serves as an argument for exclusion from suffrage, in order to save the Latvian democracy and avoid a Communistic backlash. Commonly it is supposed that 85% of ethnic Latvian voted for independence.¹⁴⁹

Meanwhile, the nationalistic forces were not in favour of resolving the citizenship issue quickly. The major reason for the delay of this question was that nationalists argued that the Supreme Council was not authorized to decide this question. The Supreme Council was elected 1990 by all residents of Latvia, consisted out of 201 seats of whom 131 were held by the Popular Front (an independent movement with mixed members, also parts of the ethnic minorities were active in this movement) and 59 by the members of the Latvian Communist Party.¹⁵⁰ The Supreme Council was a Soviet institution and therefore it was seen by nationalists as installed by an „occupational power“, merely a transitional parliament, with no right to pass a binding citizenship law.¹⁵¹ Furthermore Latvian officials hold that a *Law on Citizenship* to come could be only passed by the Latvian parliament - the Saeima - after its re-establishment.¹⁵²

¹⁴⁴ Karklins, Rasma: „Ethnopolitics and Transition to Democracy“. Washington D.C., 1994, p. 103.

¹⁴⁵ Ibid.: p. 102.

¹⁴⁶ Galbreath, David: „Nation-building and Minority Politics in Post-Socialist States. Interests, Influences and Identities in Estonia and Latvia“. 2005, Stuttgart, p. 173.

¹⁴⁷ Karklins, Rasma: Ibid.: p. 102.

¹⁴⁸ Kolstø, Pal (2000): Ibid.: p. 112.

¹⁴⁹ Onken, Eva-Clarita: Ibid.: p. 67.

¹⁵⁰ Guboglo, Michael: Ibid.: p. 407.

¹⁵¹ Barrington, Lowell: „Understanding Citizenship Policy in the Baltic States“. In: Alexander, Aleinikoff [ed.] *From Migrants to Citizens. Membership in a Changing World*, Washington D.C., 2000, p. 266.

¹⁵² Ibid.

In the time between the 1989 and 1991 another important organisation developed that pushed to restrict citizenship most of all to interwar citizens. The Citizens' Committee were established, that developed from the dissident-movements in the mid-1980's. It registered until 1989 on a free willingly basis (but without a legal basis) 800,000 people, that were citizens of pre-war Latvia.¹⁵³ This Committee perceived itself as a more legitimate representative of Latvian interest than the Supreme Council. The Committee claimed that Soviet settlers arriving in Latvia during „occupation“, were personally guilty of illegal colonisation, and therefore should not be automatically accepted in the political community.¹⁵⁴ As a result of this widely accepted argumentation it was naturally that these only could hope for integration and integration in the long term.¹⁵⁵ The Citizens Committee, with it's strong nationalistic rhetoric was able to lobby for the restoration concept, refusing that the 50 years within the Soviet Union should have practical consequences for the state to come.¹⁵⁶

However, despite it's unpopularity among nationalists and the Citizens' committee the Latvian Supreme Council passed a resolution on citizenship on October 15th, 1991.¹⁵⁷ Although the Supreme Council was regarded less radical than the Citizens' committee, the resolution passed by the Council scheduled a restrictive restoration model, resembling Brubakers second model, were only interwar citizens and their children could become citizens.¹⁵⁸ Here for the first time the principle of legal restoration is mentioned in a law text that should have far reaching consequence for the future of Latvia:

Although the Republic of Latvia was occupied on June 17, 1940 and the state lost its sovereign power, the aggregate body of Republic of Latvia citizens, in accordance with the Republic of Latvia ‚Law about Citizenship‘ of August 23, 1919, continues to exist. As a result of the long-standing internationally illegal annexation of Latvia's territory, a large number of USSR citizens, whose entry and residency have not been

¹⁵³ Onken, Eva-Clarita: Ibid.: p. 71.

¹⁵⁴ Pettai, Vello: „Definitions and Discourse: Applying Kymlicka's Model to Estonia and Latvia“. In: Will, Kymlicka [ed.] *Can Liberal Pluralism be Exported? Western Political Theory and Ethnic Relations in Eastern Europe*. New York, 2001, p. 265.

¹⁵⁵ An insight into the ideas of the Latvian Citizens' Committee: „At the founding Congress of the Latvian Citizens Committee in 1989 it was noted that there was nothing wrong with an ‚ethnically pure attitude towards citizenship. There should be no hypocrisy; there is nothing shameful in Latvian-like Latvia.‘ To do otherwise would, legalize the occupation and incorporation of Latvia into the USSR.“ Quoted in: Smith, Graham: Ibid: p. 204.

¹⁵⁶ Pettai, Vello: „Estonia and Latvia: International Influences on Citizenship and Minority Integration“. In: Jan, Zielonka [ed.] *Democratic Consolidation in Eastern Europe. International and Transnational Factors, Vol. 2*, Oxford, 2001, p. 262.

¹⁵⁷ Kehris, Ilze; Muiznieks, Nils: „The European Union, democratization and minorities in Latvia“. In: P. Kubrick [ed.] *The European Union and Democratization*, London, 2003, p. 32.

¹⁵⁸ Guboglo reasons that former communist turned into nationalist, because especially „provincials“ or „émigrés“ could easily be compromised as the old elite from the communistic part. By playing the nationalistic card, they tried to compensate for their communistic past. See in: Guboglo, Michael: Ibid.: p. 409.

accepted by any treaty between the Republic of Latvia and the USSR have settled in Latvia. To **eliminate the consequences** [my italics] of the USSR's occupation and annexation of Latvia and to renew the legal rights of the aggregate body of Republic of Latvia citizens...¹⁵⁹

One interviewee told me that the state-continuity thesis was not the only possibility discussed in the Supreme Council. In addition to that, a widely appreciated variant was, to give rural areas more vote in Latvian elections and thus over represent these areas.¹⁶⁰ The underlying thought was that on the country side ethnic Latvians were a clear majority in the share of the population, while in the 7 biggest of 8 cities Latvians were less than half of the population.¹⁶¹ Thus, in that way the votes of ethnic Latvians would be over represented in relation to their share in the population.

9.5 Ideational Analysis of the *Republic of Latvia Supreme Council Resolution: On the Renewal of Republic of Latvia citizens rights and fundamental principles of naturalisation 1991.*¹⁶²

Which groups obtain citizenship automatically?

Eligible to automatic citizenship by this resolution were those, who were citizens of independent interwar Latvia by June 17, 1940 (and their descendants) that today reside in Latvia or abroad. For those who live in Latvia and register by July 1st, 1992 automatic citizenship is available upon registration. Persons living abroad and belonging to the citizenry of interwar Latvia can return any time to Latvia and upon registration obtain Latvian citizenship, if he or she renounces the citizenship of another country, he or she is holding.

Which groups receive preferential treatment in applying for citizenship?

People included here, can be granted citizenship by request, but this procedure is however not as automatic as for the interwar citizens. Furthermore, sometimes the granting of citizenship depends on certain requirements.

People that can claim citizenship by request (without naturalization) are persons, who rendered outstanding service for Latvia. People who legally entered Latvia before 1940 and

¹⁵⁹ *Republic of Latvia Supreme Council Resolution: On the Renewal of Republic of Latvia citizens rights and fundamental principles of naturalisation* (October 15, 1991). Quoted in: Tsilevich, Boris: Citizenship Issue and Language Legislation in Today's Latvia: Tools for Implementation Ethnic Nation-State Concept. In: Danish Centre for Human Rights [ed.] *Citizenship and Language Laws in the Newly Independent States of Europe*. Seminar paper of a conference held January 9-10, 1993 in Copenhagen, p. 2.

¹⁶⁰ Boris, Tsilevich (Member of Parliament, Researcher), Riga, (12.05.2008).

¹⁶¹ In the capital Riga, the Latvian share of the population was 35% and around 40% for ethnic Russians in 1989.

¹⁶² *Ibid.*: pp. 2-4.

have their domicile in Latvia and their descendants are as well eligible to citizenship upon their request. Persons who were theoretically eligible to citizenship in accordance with the *Law on Citizenship* 1919 but did not make these claims and live in Latvia (and their descendants) can acquire Latvian citizenship, if they renounce their former citizenship and can prove a command of Latvian at a conversational level.

What has to be done to successfully undergo naturalisation?

The naturalisation process is foreseen to begin not sooner than 1st of July 1, 1992. It is required to permanently live and be registered in Latvia by July 1, 1992.

The following requirements have to be met:

- a) A command of Latvian on conversational level.
- b) Renunciation (or expatriation permit) of previous citizenship if possible.
- c) Permanent residence in Latvia no less than 16 years.
- d) Knowledge of the basics of the Constitution.
- e) Swear loyalty to the Republic of Latvia.

Moreover, the present Resolution excludes the possibility of dual citizenship.

Who is excluded from the possibility to become part of the citizenry?

Exclusion means that several persons can not become citizens of Latvia (for some of them even the non-citizens status is not available). The following groups are concerned:

- a) People who entered Latvia in accordance with the Mutual Assistance Pact between Latvia and the Union of Soviet Socialistic Republics.
- b) Individuals that turned against the independence of Latvia, the democratic parliamentary state system or against the state in general by unconstitutional means (as established by a court).
- c) Persons convicted to a prison term or are accused of a crime at the time when about the granting of citizenship is decided.
- d) Individuals that committed crimes against humanity or war crimes, or that exerted mass repression (as established by court).

- e) Retired staff of the „...USSR (Russian) Armed Forces or the USSR (Russian) Interior Armed Forces, who at the time of their conscription were not residents of Latvia.“¹⁶³
- f) Persons that came to Latvia after June 17, 1940 as staff of the Communist Party or Komsomol organisation.
- g) People that are registered in medical institutions for drug addiction and/or addiction to alcohol.
- h) Person who have no legal income.

9.6 Effect Analysis of *Republic of Latvia Supreme Council Resolution: On the Renewal of Republic of Latvia citizens rights and fundamental principles of naturalisation 1991*

The direct effect of this resolution was that a large share of the population of the former Latvian SSR (Latvian Socialistic Soviet Republic) was excluded from automatic citizenship. The exclusion from citizenship meant not only the loss of all political rights, but also the loss of social rights and the right to hold positions in large parts of the state sector. The ground for the possibility to exclude former citizens of the Latvian SSR from automatic citizenship of independent Latvia was the notion of state continuity.¹⁶⁴ According to the principle *ex injuria non oritur jus*, which is a fundamental principle of law: „...no legal benefit can be derived from an illegal occupation act.“¹⁶⁵ This means that legal acts that came into force from 1940 until 1990 were null and void, because the incorporation into the Soviet Union is regarded as illegal occupation by the legislation and the political elite. Consequently all people entering Latvia during „occupation“ were defined as illegal immigrants, occupants, or transitory settlers.

Furthermore, many Western countries did *de jure* not recognise (*de facto* many did) the incorporation of the Baltic States into the Soviet Union.¹⁶⁶ This justified the

¹⁶³ Ibid.: p. 3.

¹⁶⁴ Estonia used the same legal concept of state continuity to exclude former USSR citizens. In Lithuania the so called „zero-option“ was utilised, giving all former USSR citizens citizenship. Citizens of interwar Lithuania, their descendants, people being born in Lithuania, permanent residents if not holding citizenship of another state were accorded citizenship automatically. However, people permanently residing in Lithuania, but with the citizenship of another country had to sign a commitment to the republic in order to be granted citizenship. This easier way of obtaining citizenship was open from November 1989 until November 1991. After this naturalisation was possible (language knowledge, employment, source of income, ten years residence requirements). The problem of stateless was also prevailing in Lithuania. As by November 1991 as the deadline for „easy“ citizenship obtainment ended, 370,000 residents stayed stateless. See in: Brubaker, Roger: Ibid.: p. 280.

¹⁶⁵ Van Elsuwege, Peter: „State Continuity and it’s consequences: The Case of the Baltic States“. In: Foundation of the Leiden Journal of International Law [ed.] *Leiden Journal of International Law*, Vol. 16, 2003, p. 1.

¹⁶⁶ For instance Sweden and Finland had accepted the annexation of the three Baltic countries *de jure*, Great Britain and France *de facto* recognised the annexation, while the US opposed it. See in: Hughes, James: Ibid.: p. 745. Another researcher, Shteiman, maintains that on the Yalta conference in 1945, the US and GB „accepted“ the incorporation of the Baltic States into the Soviet Union. See in: Штейман, И.: „Из истории государства и

argumentation of Estonia and Latvia in the eyes of many Western countries and supported them to go a more exclusive way in terms of citizenship.

It is important to say that also non-ethnic Latvians received automatic citizenship. About 38-42% of the ethnic Russian population, 60% of Poles and 90% of Gypsies could enjoy this right after the Resolution of 1991 and were thus entitled to participate in the first elections to the Saeima in 1993. About 20% of the minority population was citizens in 1993 (while constituting approximately 47-48% of the population).

The exact number of people that did not receive automatic citizenship is not clear. Galganov estimates that about one million people became stateless, when the Resolution was passed.¹⁶⁷ Barrington means that between 700,000 and 800,00 people were denied automatic citizenship.¹⁶⁸ The most often quoted number in this regard is 700,000 stateless.¹⁶⁹ Chinn assumes the lowest number, with about 650,000 non-citizens.¹⁷⁰ Also in the calculation of the proportional share the data is not unequivocal. Jubulis states that 28% of the whole population became stateless.¹⁷¹ Danjoux provides the number of 25% of the Latvian population not receiving automatic citizenship.¹⁷² Kruminja states that 28,6% of the population did not receive automatic citizenship in 1994.¹⁷³

At the same many thousands Russophones left the country. From the 1991-1995, 168,000 mostly Russophones (without citizenship) left Latvia and these people were not counted into the numbers given above.¹⁷⁴ The Naturalisation Board of Latvia gives the number of 731,078 non-citizens as by October the 5th, 1995.¹⁷⁵ If counted together, the out-migration from Latvia and the number of non-citizens, estimated 899,078 people were excluded from citizenship in 1991. Considering the number of inhabitants in 1989 (exact data from 1991 is not available), then out of 2,666,567 inhabitants 899,078 were not given

права Латвии“. Рига, 2005, с. 201. [Shteiman, I., „The history of the State and Law in Latvia“. Riga, 2005, p. 201].

¹⁶⁷ Галаганов, З.: „Межнациональные Отношения. Россия и Прибалтика. Часть 2“. Кемерово, 1997, с. 139. [Galaganov, Z.: „Interethnic Relations. Russia and the Baltic countries. Part 2“. Kemerovo, 1997, p. 139.]

¹⁶⁸ Barrington, Lowell: Ibid.: p. 267.

¹⁶⁹ See for instance in: Budryte, Dovile: „Taming Nationalism? Political Community Building in the Post-Soviet Baltic States“. Hampshire, 2005, p. 103.

¹⁷⁰ Chinn, Jeff; Truex, L.: „The Question of Citizenship in the Baltic countries“. In: *Journal of Democracy*, Vol. 7, 1996, p. 137.

¹⁷¹ Jubulis, Mark: „Nationalism and Democratic Transition. The Politics of Citizenship and Language in Post-Soviet Latvia“. Boston, 2001, p. 1.

¹⁷² Danjoux, Olivier: „L'Etat C'est Moi. Reframing Citizenship(s) in the Baltic Republics“. Lund, 2002, p. 229.

¹⁷³ Kruminja, M.: Ibid.: p. 25.

¹⁷⁴ Hughes, James: „Exit' in Deeply Divided Societies: Regimes of Discrimination in Estonian and Latvia and the Potential for Russophone Migration“. In: *Journal of Market Studies*, Vol. 43 (4), 2005, p. 3.

¹⁷⁵ Naturalisation Board of Latvia: www.np.gov.lv/index.php?id=469&top=469 (27.05. 2008).

automatic citizenship, which equates 29,66% of the population. Many sources also give the data of 34% of the population as being excluded from Latvian citizenship.¹⁷⁶

Although the Resolution of the Supreme Council formally made no direct ethnic reference (since a part of the minority population was granted citizenship by virtue of their ancestors' citizenship) the overall majority of the new aliens (or non-citizens) were representatives of non-Latvian groups.

The Resolution passed on October 15, 1991 was formally not a law, but it was the basis for the creation of the electorate of the Saeima, to be elected in June 1993 and the Resolution also led to the issuing of Latvian citizen passports (starting in 1992).¹⁷⁷ Consequently, the Soviet Supreme Council decided the question of who should be part of the citizenry in 1991 and not the later elected Saeima.

Besides this legislation, practically measures were adopted to prioritise the interest of ethnic Latvians. In practice the rules for entering Latvia were changed. Now, those coming from parts of the Soviet Union to Latvia, had no longer right to be registered as permanent residents, while ethnic Latvians coming from parts of the Soviet Union had this right.¹⁷⁸

The newly created Department of Citizenship and Immigration, which was responsible to register all residents of Latvia (besides military personal) in violation of the legislation, denied registration to a large part of the residents¹⁷⁹:

However, in violation of the law "On Registration," [the Department of Citizenship and Immigration] conducted a policy of denying certain non citizens registration. Those denied registration included residents of temporary housing, retired Soviet military personnel, civilian employees-both past and present-of the Soviet military, and individuals who resided in housing built by the Soviet military but in many cases later transferred to civilian housing authorities. Estimates of those denied registration reached as high as 150,000. The unregistered had no right to receive social services and were considered temporary residents.¹⁸⁰

The provisions of the Resolution can be seen as crucial for the coming elections to the Saeima and consequently for the whole future development of Latvia. Statistics on the elections give

¹⁷⁶ Human Rights Watch: <http://www.hrw.org/reports/1994/WR94/Helsinki-14.htm#TopOfPage> (27.05.2008).

¹⁷⁷ Dorodnova, Ekaterina: „Challenging Ethnic Democracy: Implementation of the Recommendations of the OSCE High Commissioner on National Minorities to Latvia, 1993-2001”. In: *CORE Working Paper*, Vol. 10, Hamburg, 2003, p. 27.

¹⁷⁸ Galganov, Z.: *Ibid.*: p. 139.

¹⁷⁹ The spokesman of the Department of Citizenship and Immigration stated in 1993: „At all times the department has emphasized [...] that sooner or later all of these 700,000 inhabitants will have to leave Latvia.” See in Kolstö, Pal: *Ibid.*: p. 117.

¹⁸⁰ Human Rights Watch: *Ibid.*

an overview on the share of the electorate and the ethnic origin of the Members of Parliament (MP):¹⁸¹

Fifth Saeima election, June 1993:

Population	54.0% Latvians	33.8% Russians	12.2% Others
Electorate	78.6% Latvians	16.3% Russians	5.1% Others
MP	88 Latvian	6 Russian	6 Others

Sixth Saeima election, June 1995:

Population	56.0% Latvians	32.0% Russian	12.0 Others
Electorate	79.3% Latvians	15.9% Russians	4.8% Others
MP	90 Latvians	6 Russians	4 Others

This strong over representation of the ethnic Latvian electorate and the severe under representation of non-Latvian electorate in relation to the actual population, was one of the cornerstones of exclusive politics conducted towards the Latvian minority population.

9.7 The first *Law on Citizenship* 1994

The rhetoric of nationalist in the beginning 1990's was at its highest peak. In an open letter from 1992 Jurij Abyzov, the Chairman of the Organisation of Russian Culture in Latvia wrote:

The spirit of national radicalism invades the legislative and state bodies, expulsion of Russians out of the public, political, cultural and economical sphere is to witness.

The problem of citizenship in Latvia and Estonia is present. Its purpose is in our opinion, simply the exclusion of us from the coming process of privatization and active entrepreneurship. With the help of the citizenship laws we are being robbed a second time, making property dependent on quotes and exams. But what was founded in the past 50 years, is the property of all permanent residents.¹⁸²

Even moderate nationalist were not in favour of giving citizenship to the „occupant” population and the more radical ones, preferred a deportation of all Soviet time settlers all together.¹⁸³ Most members of the minority population supported a granting of citizenship to

¹⁸¹ Kolstö, Pal: *Ibid.*: p. 114.

¹⁸² Абызов, Юрий: „Не стыдно и оглянуться... Выступления, интервью, статьи, документы“. Рига, 2002, с. 99. [Abyzov, Jurij: „It is not shameful to look back... Speeches, Interviews, Articles, Documents“. Riga, 2002, p. 99.]

¹⁸³ As Ritvars Eglas, a Latvian nationalist writes in the *Latvijas Jaunatne* [a Latvian newspaper] in August 1993: „[forced] migration could be one of the main means for achieving a Latvian majority in Riga. Unfortunately, the colonist are taking root in Riga: they are allowed to participate in privatization and receive certificates. This does not promote deconlonization.“ See in: Budryte, Dovile: *Ibid.*: p. 110.

all permanent residents. A quite big share of the minorities also favoured automatic citizenship for all that have lived in Latvia at least 10 years or more. A considerable part of ethnic Latvians also supported this view. Many ethnic Latvians, as well state- continuity. However, leading politicians were in strong favour of voluntary repatriation. Valdis Birkavs the Prime minister of Latvia 1993 expressed this thought. He stated that the solution to the „Russian problem“ could not only be reached through the process of naturalisation but by other means like „encouraging voluntary repatriation and emigration to third countries“. ¹⁸⁴ Guntis Ulmanis the Latvia president had quite the same stance, but opted against violent repatriation. He gave the promise that Latvia would not take up means - such as forceful repatriation of Russian speakers - instead repatriation should be „peaceful and voluntary“. ¹⁸⁵

Although a big part of the minority population left Latvia, most of them were there to stay. Confronted with this reality and with over the years increasing pressure from international organisations a limited integration of the minority population was reviewed. This resulted in a quota system to, which allowed only a tiny number of people to naturalise every year. The naturalization quota was to be defined every year by the government and the parliament „...taking into consideration the demographic and economic situation in the country, in order to ensure the development of Latvia as a single-nation state.“ ¹⁸⁶. It was feared that the society could not manage such a big number of „badly“ integrated people (represented by the past-1940 settlers). ¹⁸⁷ The quota could be as low as 0,1% of the amount of citizens of Latvia (and consequently at an number of 2000 people a year). Despite high pressure from the OSCE and the Council of Europe and signals that the desired accession to the Council of Europe would not be possible to Latvia, if Latvia would not adopt a more inclusive naturalisation system, a majority of the MPs preferred to have as little naturalized citizens as possible and the quote system passed all three readings in the Saeima. Only the president had the power to return this law to parliament for revision. Due to Budryte, Latvia was given the promise if the quota system in the citizenship law would be cancelled, Latvia would access the Council of Europe earlier than Russia. ¹⁸⁸ In the end, the Latvian president Gunther Ulmanis (grand-nephew of the former authoritarian Latvian leader Karlis Ulmanis)

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Kettig, Silke: „Europäischer Minderheitenschutz im Wandel. Konfliktprävention in Estland, Lettland und Litauen“. Baden-Baden, 2005, p. 162.

¹⁸⁷ Ibid.

¹⁸⁸ Budryte, Dovile: Ibid.: p. 111.

send this Law back for revision.¹⁸⁹ Instead, a „window system“ was adopted that restricted the eligibility to citizenship after age and place of birth.

9.8 Ideational analysis of the *Law on Citizenship* 1994¹⁹⁰

Which groups obtain citizenship automatically?

The most crucial point in this *Law on Citizenship* is first of all that it stringently follows the logics of state continuity, as established in the Resolution from 1991. Only people, who were citizens of Latvia by the 17th of June 1940 (the day Soviet Troops entered Latvia) and their descendants are entitled to obtain Latvian citizenship automatically, since they are seen as the aggregate citizen body of Latvia.

The law mentions as aggregate body of citizens the following groups (in order to be granted citizenship they have to be registered in the Resident Register):

- a) People who were citizens of interwar-Latvia until the 17 June 1940 and their descendants if they register and by the 4 May 1990 did not acquire any other citizenship.
- b) Children if their parents are unknown (if both parents were citizens of Latvia), or if the children in question are living in an orphanage or boarding school. If both parents are Latvian citizens and the child is born outside of Latvia, he/she is considered Latvian citizen as well.
- c) In article three of the Citizenship law it is stipulated that in most cases where one parent is a Latvian citizen (and the other an alien or stateless), the child shall be granted the Latvian citizenship (if both parents agree on this).

This means that if one parent is a Latvian citizen, then Latvian citizenship is available for the child.

In addition to that, former citizens of Latvia and their descendants, who left (or were deported from) Latvia because of the rule of the Soviet Union and Germany until the 4th of May 1990, and have become citizens of another country, have the right to receive Latvian citizenship.

They can even keep the citizenship of the other country if they register before the first of July

¹⁸⁹ According to his staff, this rejection that was enforced from the outside, strongly was against Ulmanis' „Latvian instinct“. See in: Budryte, Dovile: Ibid.

¹⁹⁰ Закон Латвийской Республики „О Гражданстве“ (1995). [The Latvian *Law on Citizenship* (1995)]. See in: www.mfa.gov.lv/ru/consul-info/356/ - 62k (06.06.2008).

1995. If they register after the first of July 1995 they should renounce the citizenship of the other state in order to receive Latvian citizenship.

Latvian citizens, who reside outside Latvia and are working in the security institutions of another country, or acquired citizenship without informing the Latvian republic, or provided false information while applying for naturalization, may be deprived of their Latvian citizenship as established by Riga's Circuit Court. In this special case, the deprivation of citizenship of their spouse, children or other family members may be conducted.

Which groups receive preferential treatment in applying for citizenship?

The given law foresees eased naturalisation requirements for certain parts of the population. A large group of people who may receive citizenship out of turn: ¹⁹¹

- a) People who have an ethnic Latvian or Liv parent and who permanently reside in or repatriate to Latvia and their partners, if the marriage lasted at least ten years until today.
- b) People who are former USSR- citizens and who actually had the right to receive Latvian citizenship due to the *Law on Citizenship* of 1919, but did not use this possibility. This applies for permanent residents of Latvia at the time when this law came into force. Descendants, and spouses of these people who lived in a marriage lasting at least 10 years have the right to obtain Latvian citizenship out of turn.
- c) Individuals and their descendants, who legally entered and permanently resided in Latvia as by the 17th of June 1940 and are permanent residents of Latvia (an exception is: those who fulfill these requirements, but entered Latvia because of the Mutual Assistance Pact between Latvia and the USSR of October the 5th 1939).
- d) People (and their descendants) who under German occupation (1941-1945) were brought against their will to Latvia and stayed there after the German army left, if they are permanent residents of Latvia are entitled to preferential treatment while applying for Latvian citizenship.
- e) Person who graduated from secondary schools (a school up to the 10th grade), vocational schools, higher educational establishments with Latvian as language of instruction.
- f) Former Estonian and Lithuanian citizens and their descendants, permanently residing in Latvia as by June 17th 1940.

¹⁹¹ Out of turn means that citizenship can be obtained earlier than for most of the non-citizens. In these cases, the applications of these people are faster reviewed.

- g) Spouses of citizens of Latvia, if they are engaged in a marriage for at least 10 years (also in the case if the other spouse died after at least ten years of marriage).
- h) People who due to the provision of the Cabinet of Ministers perfectly master the Latvian language.

For people from one of the above-mentioned categories the requirement of not being convicted for a serious crime and the requirement of 5 years of residency after the 4th of May 1990 are waived. A person who made an outstanding service for Latvia can also be granted citizenship of Latvia out of line by Saeima resolution.

In the Latvian legislation, the fact of being married to a citizens, does not entitle to citizenship. In the case that a Latvian citizen marries an alien or a stateless person, or dissolves this marriage later on, the citizenship status of the Latvian citizen shall not be affected. It shall have no influences on the spouse status, if one marriage partner is granted or loses Latvian citizenship.

In the present law it is stated that parents of minors, who want to change the minor's citizenship, require a written consent of the minor, if he or she is between 14 and 18 years old. If the minor is under 14, a written consent is not necessary. Thus, the minor coming of age has the right to restore his or her Latvian citizenship. Is a marriage between a Latvian citizen and an alien contracted, and the child has obtained a foreign citizenship, coming of age the child can undergo naturalisation (without the residence requirement) and become a Latvian citizen.

What has to be done to successfully undergo naturalisation?

In the Republic of Latvia it is possible to become Latvian citizen through the process of naturalisation. It is stipulated that people can only receive citizenship if they are registered in the Residents' Register and if they fulfil the following requirements:

- a) Five years of permanent residence counting from the 4th of May 1990 on they day they submit their naturalisation application.
- b) If they show a command of the Latvian language (Test).
- c) Knowledge of the principles of the Constitution and the Constitutional Law (Test).
- d) Are familiar with the anthem and history of Latvia (Test).
- e) Have a legal income.
- f) Swear loyalty to Latvia.
- g) Renounce other citizenship and provided expatriation permits if possible.

- h) Not fall under the restrictions of article 11.

Persons that were former citizens of the USSR do not have to submit an expatriation permit but they need to submit a statement of renunciation of their former USSR citizenship. A fee for naturalisation has to be paid by every applicant. People whose application has been denied can resubmit them after one year. Additionally, some exemptions from the Latvian language test for the following people are made:

- a) People who received their general education in schools with instruction in Latvian.
- b) 1-category invalids (severely handicapped persons), who were conferred term less disability.

In article 14 of this law the regulations for the procedure of naturalisation are specified. The possibility of naturalisation is restricted after the place of birth and the age when submitting naturalisation application. The first people that can apply for citizenship from January 1, 2006 are the age groups between 16 and 20 born in Latvia. In the following year the age group from 20 to 25 is eligible to apply etc. From 2001, people born outside of Latvia can apply for naturalisation.

The regulation of this law, determines the status of minor alien (children) of naturalised parents or a parent. Children of a person, who underwent naturalisation, shall be granted citizenship and all requirements of naturalisation are waived for them. This is also valid, if only one parent underwent naturalisation and the other parent stays stateless or alien. The granting of citizenship to a child in this case is only possible, if both parents agree. If they do not agree, but if the place of the child's residence is Latvia, the child will be conferred citizenship, even if one parent disapproves that. For children born out of wedlock the same applies. If a „minor alien“ (a stateless) child is adopted by an alien and a citizen, than the child should be conferred citizenship, without naturalisation. If naturalisation is annulled the citizenship of the child can likewise be renounced.

Since Latvian language tests are a fundamental part of the naturalisation procedure, therefore the required command of Latvian is defined. The person in question has a command of Latvian, if/she:

- a) „...completely understands information of everyday and official nature.

- b) Can freely talk, carry on a conversation and answer questions on topics of an everyday nature.
- c) Can read freely and understand any texts of everyday nature, laws and other normative acts and other instructions of everyday nature.
- d) Can write a composition on a topic from everyday life.“¹⁹²

The equality of citizens is guaranteed in article 4. Rights and duties of Latvian citizens, are independent from the manner a person received his or her citizenship.

Who is excluded from the possibility to become part of the citizenry?

As laid down in article 11, a series of regulations exists to identify, who is not able to apply for citizenship. The following eight groups of people are denied the right to naturalisation.

- a) Persons, who were sentenced by a court of turning against the independence of Latvia, the democratic parliamentary state system or against the state in general by unconstitutional means (as established by a court).
- b) People who after the 4th of May promoted: „...fascistic, chauvinistic, nationalistic, socialistic, communistic, or other totalitarian ideas or have stirred up ethnic or racial hatred...“ (as established by a court)¹⁹³.
- c) Persons that are representatives of foreign state bodies.
- d) Individuals that serve: „...in the armed forces, internal forces, security forces or the police (militia) of a foreign state...“¹⁹⁴
- e) Retired stuff of the: „...USSR (Russian) Armed Forces or the USSR (Russian) Interior Armed Forces, who at the time of their conscription were not residents of Latvia.“
Certain exceptions apply under Article 13.¹⁹⁵
- f) People that were employees, informants or agents of foreign security forces or a secret service if such fact is revealed. This concerns for example employees of the KGB and other secret services.
- g) Persons that were sentenced to prison for a term, longer than one year (in Latvia or abroad) for an intentional crime. The crime committed should be considered a crime in Latvia by the moment this law comes into force.

¹⁹² The Latvian *Law on Citizenship* (1994): Ibid.: Article 20.

¹⁹³ Ibid.: Article 11.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

- h) Individuals who acted against the Latvian state, participating in the: „...Communist Party of the Soviet Union or the Latvian Communist Party, the Working Peoples` International Front of the Latvian SSR, United Council of Labour Collectives, Organization of War and Labour Veterans, or the All-Latvia Salvation Committee and its regional committees.“¹⁹⁶

The following provisions of this law are not directly related to my research questions, but they are crucial to understand the laws on citizenship as a whole.

Article 6 and 7 are concerning the retention of citizenship and protection of Latvian citizens that reside outside of Latvia. If a Latvian citizen resides outside of Latvia, then this person should not be retained of his or her citizenship regardless of the duration of stay outside Latvia (an exceptions: deprivation of citizenship, article 24). Latvian citizens living outside of their country shall enjoy the protection of the Latvian state.

Article 8 stipulates that no Latvian citizen shall be extradited to foreign countries and neither should be forced to leave Latvia.

Dual citizenship is not allowed. The acquisition of Latvian citizenship shall not lead to dual citizenship. Only if the other host-country does not provide for renunciation of citizenship, dual citizenship is possible. In this case the respective person is solely treated in accordance with Latvian laws in the relation with Latvia.

Article 23 and 24 are regarding renunciation and deprivation of citizenship. Provided the case that a person acquires another citizenship, a renunciation of Latvian citizenship is principally possible. A renunciation may be denied if the person in question has „...not fulfilled his or her obligations towards the State...“ or if the person did not serve in the Latvian armed forces.¹⁹⁷ Against the decision to reject renunciation, an appeal in court can be filed. A person can equally be deprived of her/his citizenship, if the person obtained citizenship of another state without informing the Latvian state, or if the person serves in the institutions of justice or security of another state without the permission of the Cabinet of Ministers. Another reason for deprivation is, if false information were provided while applying for citizenship (if this is discovered in the course of five years after naturalisation).

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.: Article 23.

The restoration of Latvian citizenship is addressed in article 25. A person who had lost citizenship as a result of a decision of parents, a juridical error or an illegal deprivation can restore citizenship, if the Cabinet of Ministers decides this.

Persons who provided false information, served in foreign institutions of justice or security or people, who acquired another citizenship without informing the Latvian state, can only re-obtain Latvian citizenship through naturalisation.

In addition to that, international agreements that were ratified by Parliament take priority over regulations of this law.

9.9 Effect analysis of the *Law on Citizenship 1994*

Although this law is based on the Resolution of the Supreme Council of 1991, major changes in this law can be encountered.

Which groups obtain citizenship automatically?

Mostly notably, the category of children, which were orphans or born to two Latvian citizens living outside the country, is regarded as initial part of the citizenry. It is stipulated that also children born to one alien parent (or stateless) and a citizen parent obtain Latvian citizenship automatically.

In the resolution from 1991 the possibility of dual citizenship was excluded. In the law from 1994, all interwar citizens fleeing from German occupation and Soviet annexation coming to Latvia until the 1 July 1995 can keep citizenships of other states. After the Resolution of 1991, which unequivocal excluded dual citizenship, the reaction of the ethnic Latvian diaspora in Western countries such as USA, GB, Australia, Canada, BRD and Sweden was strong.¹⁹⁸ The transitional provisions in the present law allow for dual citizenship, if „exiles” register as citizens until July 1995. These favourable conditions for the Latvian „exilee” community lead to restore their Latvian citizenship. Today a lot of these former „exilees” hold influential position in many spheres of Latvian society.

Although the criteria for dual citizenship makes no reference to ethnicity, in fact those favoured by this decision of the legislator are in the majority ethnic Latvians, living in the diaspora in Western countries.¹⁹⁹ An interviewee reported to me that there are cases, where

¹⁹⁸ Interview with Boris Tsilevich

¹⁹⁹ The Office of Citizenship and Migration figures state that in total 30 793 people hold dual citizenship. The overwhelming majority, 23 303 has a second citizenship from the USA (12 473), Australia (4283), Canada (3788), GB (2759). „Western“ English-speaking countries (partly exception is Canada) account for 23 303 out of 30 793 dual citizenships. Citizenships from other countries are from Germany 1615, Russia 1615, Sweden 1317 and Israel 1268. The low number of people holding dual citizenship of Russia (also Ukraine and Belarus) as by the transitional regulations from 1995 could be a hint to the abovementioned practice: See in: Office of Citizenship and Migration Affairs: www.pmlp.gov.lv/en/statistics/dual.html (27.05.2008).

dual citizenship is denied to people, who fled to Soviet Russia and would under this provision be able to hold Russian and Latvian citizenship.

Which groups receive preferential treatment in applying for citizenship?

In comparison to the Resolution on Restoration of 1991 some groups of people were added, that can naturalise out of turn. These were the people that were forcibly deported to Latvia under German occupation and their descendants. Also former citizens of Lithuania and Estonia and partners at least 10 years married with a Latvian citizen fall in this category. Apart from persons who speak Latvian perfectly, person that obtained general education in Latvian have the right to get Latvian citizenship easier. People (and their partners) who have a Latvian parent and come to Latvia or reside there already, enjoy the same right.

Interestingly people who legally entered Latvia before 17 June 1940, but were not citizens of interwar Latvia cannot receive citizenship upon registration anymore as initially foreseen in the Resolution from 1991. They have to undergo the normal procedure of naturalisation.

Also the groups of people, who due to the Citizenship Law of 1919 could have claimed Latvian citizenship, but did not do it, have to fulfill changed requirements. In the Resolution it was stated that they merely have to perform a command of Latvian on the level of conversation to be granted citizenship. Under the law of 1994, these people had to undergo naturalisation like all other groups.

The provisions of the new law are more precise and a larger part of people is addressed. At the same time the regulations for naturalisation are tightened in comparison to the Resolution from 1991. Only interwar-citizens and their descendants and the children-group are regarded as initial body of the citizenry. Only some other groups can now only receive naturalisation out of line. People that render outstanding service for Latvia are as previously, not obliged to undergo naturalisation.

The citizenship question regarding marriage was regulated and it was laid down that marriage does not change the citizenship status of the spouse. Against the practice in a lot of countries marriage does not entitle to rights to citizenship.²⁰⁰ On the contrary, the law

²⁰⁰ In Sweden for example, spouses to citizens also receive preferential treatment over some other groups. People living in a marriage and even people living in a relationship have the right to obtain citizenship through naturalisation from the first day of marriage or relationship.²⁰⁰ See in: Lag om svenskt medborgarskap [Swedish Law on Citizenship]: Article 12, Section 2: <http://www.riksdagen.se/Webbnav/index.aspx?nid=3911&bet=2001:82> (07.05.2008). Also in France, the spouse obtains automatic citizenship after two years of marriage upon registration. See in: Autexier, Christian: Die Staatsangehörigkeit: http://autexier.jura.uni-saarland.de/skripteca/DPFStaatsexamen/drpufr/drpufr_000023.htm (19.05.2008).

formulated a negative right and stipulated that people that marry an alien or stateless, do not lose their Latvian citizenship. In Latvia, one can encounter a long history of ethnic mixing. In Soviet Latvia, inter ethnic marriages between Latvians and other ethnicities in Soviet Latvia reached approximately 20% of all contracted marriages at the beginning of the 1980's.²⁰¹ In 1996, this number sank and the interethnic marriage of ethnic Latvians accounted for 17% of all marriages contracted by Latvians with other ethnic groups.²⁰² Traditionally other ethnic groups have a higher rate of inter ethnic marriages, in 1996 this rate was at 34%.²⁰³ Due to the fact that most non-ethnic Latvians are also non-citizens, one could reason that marriage with a non-ethnic Latvian also means to marry a non-citizen, who has less rights. The still relatively high figures for inter ethnic marriages show that the determination of ethnicity is especially in the Latvian context more complicated, than one could suggest.²⁰⁴

In the law from 1994 it was regulated, how in a case of loss of Latvian citizenship by a minor, Latvian citizenship can be restored. Thus, the replenishment of the citizenry is ensured and ex-citizen minors have under this law clear priority to children of aliens and stateless born in independent Latvia (since the law gives the latter no right to citizenship).

The division into better-treated minority groups can be seen as an attempt to segment the minority population.²⁰⁵ Through giving one group from a minority population more rights than others, the potential resistance of the minority population as a whole is weakened. The better-treated minority group is rather loyal to the titular group, owing them for the special rights they hold.

What has to be done to successfully undergo naturalisation?

²⁰¹ Звидриньша, П.: „Население Советской Латвии“. Рига, 1986, с. 71. [Zvidrinsha, P.: „The Population of Soviet Latvia“. Riga, 1986, p. 71.]

²⁰² Dobson, John: „Ethnic discrimination in Latvia“. In: Camille, O'Reilly [ed.] *Language, Ethnicity and the State*, Vol.2, London, 2001, p. 159.

²⁰³ Ibid.

²⁰⁴ For the sake of comparison, in 1992 of all Black women in the USA merely 1,2% had a white partner (of course one has to take into consideration that women constitute only around 50% of the people that can contract a marriage). See in: 1992 Danjoux, Olivier: „L'Etat C'est Moi. Reframing Citizenship(s) in the Baltic Republics“. Lund, 2002, p. 265.

²⁰⁵ Lustick, showing the Israeli case, means that through favouring one special group from a minority population, the minority can be segmented and thus its resistance will be weakened: „Moslem Arabs recognize and resent the segmentalist policies of the government, including the favoritism shown toward Christians, and especially toward the Druse. The distrust and suspicion which such policies engender hamper the ability of these groups to organize politically on an „all Arab“ basis. See in: Lustick, Ian: „Arabs in the Jewish State“. Austin, 1980, p. 135. This is by the way, perfectly reflecting events in Estonia, when in the beginning 1990's regional politicians of the Narva-district (which a large majority of non-citizen Russian speakers) opted for regional autonomy and these politicians promptly were accorded citizenship out of line and without naturalisation.

The naturalisation requirements in this law changed as well. In the Resolution from 1991, it was supposed that naturalisation would begin the 1st of July 1992, under the present law naturalisation would begin for a small group in 1995 and after that the so-called window system would be applied (starting from 1996). This meant for instance that persons born outside of Soviet Latvia, could only apply in 2001, 10 years after the independence of Latvia.²⁰⁶

The requirements for naturalisation as stated in this law are extensive, considering the fact that non-citizens and citizens had the same citizenship before 1991. The governmental stance in Latvia is that the requirements are in line with international standards:

According to a number of international experts, the naturalisation requirements laid down by the *Law on Citizenship* with respect to the applicants comply, from the time of their coming into effect, with generally accepted international standards and basic principles for the formation of an integrated society.²⁰⁷

On the first sight, this seems convincing, but the decisive point here is the context around the naturalisation requirements. As argued before, Latvia was and is more ethnically diverse, than most other Western European countries. Language knowledge tests are in many countries obligatory, in the Latvian context they appear more problematic.

Firstly, when this law came into force, no Latvian courses for adults were provided by the state.²⁰⁸ In a situation, where in cities Russian was sufficient for social intercourse, it seems demanding to make language a pre-condition for the acquisition of citizenship. Those older people that did not know much Latvian are in this way maybe most affected, since their ability to learn Latvian is arguably less than within younger generations. Due to the fact that a long time, there were no language courses provided by the state, financially weaker parts of the population may be affected more by the language regulations.

The provision to have a legal income, seems also doubtful in the Latvian situation, where most non-citizens have lived a long time in Latvia or are even were born there. Above this the criterion of legal income is quite unclear defined.²⁰⁹

²⁰⁶ Due to the window system, in 2001, people who were born outside of Latvia and entered Latvia as a minor can submit their application. People born outside Latvia and entered it up to the age of 30, can apply in 2002. All other persons born outside Latvia, entering Latvia at the age of 31 and older have the right to submit applications in 2003.

²⁰⁷ Kehris, Ilse; Stalidzane, Ilona: „The Role of Regional Aspects in Dealing with Citizenship Issues”. Riga, 2003, p. 5.

²⁰⁸ Only in 1996 a program began funded by the UN to educate special groups of people (for instance minority school teachers) in the Latvian. The biggest share of non-citizens could not take part in Latvian language courses. See in: Budryte, Dovile: *Ibid.*: p. 116.

²⁰⁹ Liga Luksos told me that social benefits like unemployment- and pension benefits are regarded as legal income by the Naturalisation Board. See in: Interview with Liga Luksos. Dorodnova states in 2003 that

All knowledge exams that have to be passed are only to be passed by people who were not granted citizenship automatically. People that become citizens by the virtue of their own or by their own interwar citizenship are not tested in these knowledge exams. This is questionable, because in Soviet times all residents of the Latvian SSR (today citizens and non-citizens) were attending Soviet-style schools. Thus, nobody learned the provisions of the constitution of independent Latvia or the history of Latvia in school, as it is taught since independence. Thus these requirements may appear to non-citizen community as discriminating and make them feel that they have to prove their loyalty to the Latvian state (because from the beginning their unfaithfulness is anticipated).

What catches attention is that the residency requirements count only from the 4th of May 1990.²¹⁰ This date seems artificial, since nearly all of the potential applicants lived in Soviet Latvia or lived there more than 16 years and many of them are born in Soviet Latvia.²¹¹ That the residency requirement of five years counts from the 4th of May 1990, considers the ideas of the legal continuity theory, which makes all residents years collected until that date invalid. A person that was born in Latvia, for instance in 1945 has a collected up to the year 1990, 45 years of actual residence, but nevertheless the time of residence for naturalisation is counted from 1990. Moreover, this person due to the window system would first be able to apply for naturalisation in the year 1999, after a *de facto* residence of 54 years. At the same children born to non-citizens, stateless and aliens, even if born in Latvia after the 4th of May 1990 are not seen as part of the citizenry and thus not accorded Latvian citizenship.

In the Resolution from 1991 there was a residency requirement of 16 years, which in great difference from the law in 1994 was not counting from the 4th of May 1990, but from the time of arrival in the Latvian SSR.

Moreover, in the Resolution from 1991 a naturalisation fee was not mentioned, while in 1994 this fee was introduced. The fee was 30 Lat, which at that time equaled 55 US-\$,

unemployment benefits are only paid a certain time, thereafter no benefits are paid. She holds that in this way long-term or unregistered unemployed are not able to apply for naturalisation. See in: Dorodnova, Jekatarina: *Ibid.*: p. 78.

²¹⁰ The *Declaration of the Supreme Council of the Latvian SSR on the Restoration of Independence of the Republic of Latvia* passed in 1990 stipulates already at that time that the incorporation into the Soviet Union was illegal and the Latvian Republic was *de jure* existing all the time since 1940. Equal rights for citizens of Latvia and also citizens of the SSSR, who wish to reside in Latvia and not obtain Latvian citizenship were foreseen. See in: <http://www.verfassungen.de/lv/index.htm> (28.05.2008).

²¹¹ 93% of all non-Latvians have been living in Latvia more than 16 years and even more, 98% have been living in Latvia more than 5 years. See in: The High Commissioners (OSCE) letter to Mr. Andrejevs, Minister of Foreign Affairs of Latvia, 10 December 1993: <http://www.minelres.lv/count/latvia/930406r.htm> (28.05. 2008).

which came close to the minimum monthly salary (19,8% respondents in an opinion poll answered that this was too expensive).²¹²

Another alteration was that in the Resolution from 1991 no exemptions from requirements were foreseen. In contrast to 1991, the new law determined that children of naturalised citizens are granted citizenship as well.

Differently from the Resolution of 1991, where a numeral limitation of naturalization was not discussed, in the law from 1994 the window system was introduced. Government officials argued that this was due to the threat of a wave of applications that would overburden the administration. This argumentation however, seems questionable considering that the quota system (favoured by a majority of MPs) should limit naturalisation to ensure the stability of the mono-ethnic Latvian state (where ethnic Latvians represent the dominant and influential group in all spheres of society).

On the whole the provision on naturalizations and the preferential treatment for some groups seem to be high of symbolical value. The practical outcome of this symbolic support is limited, since people that receive a preferential treatment still have to undergo knowledge exams and pay the naturalisation fee.

Who is excluded from the possibility to become part of the citizenry?

The target group not eligible to naturalisation has slightly changed. Two new groups are listed in the law from 1994. Representatives of foreign state bodies and individuals that served in the security forces of a foreign state are not eligible to naturalization anymore.

All in all the group of people who are not eligible to naturalisation is quite comprehensive. However, this exclusion from the possibility of becoming citizen pertains only to people and their descendants that came after 1940 and worked for example as agents for the KGB. At the same time, those who grew up in Latvia prior to 1940, or their descendants, receive Latvian citizenship by virtue of their ancestors, even if they worked for the KGB or other institutions.

The same is true for persons drafted to the USSR army from the Republic of Latvia after June 1940. If at the time prior to conscription their place of residents was not Latvia, ex-soldiers are not eligible to Latvian citizenship. Thereby most ethnic Latvians and a part of the minority population are granted citizenship automatically, even if they served in the Soviet army, while retired army personal from other parts of the Soviet Union can not apply for citizenship at all.

²¹² Dorodnova, Ekaterina: Challenging Ethnic Democracy: Implementation of the Recommendations of the OSCE High Commissioner on National Minorities to Latvia, 1993-2001. In: CORE Working Paper, Vol. 10, Hamburg, 2003, pp. 75-76.

People active in Communist organisations after the 13th of January 1991 are also excluded from naturalisation (here no exception is made for citizens of interwar Latvia).

In the law from 1994 two groups have been cancelled from the list. The drug-addicted that are registered in medical institutions and those that have been sent to Latvia after 17 June 1940 by the Communist Party or by Komsomol may apply for citizenship as well. Especially the latter provision shows the very selective nature of the Resolution from 1991, and also the selectiveness of the *Law on Citizenship* in general, which reserves automatic citizenship for pre-war descendants and their descendants regardless of their past. On the contrary, people coming after 1940 are subjected to a wide range of restrictions, which can lead to the conclusion that initially it was not aimed to include the Soviet-era settlers into the body of citizenry.

9.10 Ideational Analysis of the *Law on Citizenship* 1995

Which groups obtain citizenship automatically?

In the amended law of 1995 new groups, subject to automatic citizenship were introduced.

The following groups were added:

- a) Ethnic Latvians and Liv, who have their domicile in Latvia and are registered there and who have no other citizenship (or renounce it) are entitled to automatic Latvian citizenship, if they register before the 31st of March 1996.
- b) Women (and their descendants), who reside in Latvia and due to the provision of the *Law on Citizenship* of the Republic of Latvia from the 23rd of August 1919 lost their Latvian citizenship, should become citizens automatically (if they are registered and hold no other citizenship).
- c) Another group of people who is entitled to automatic citizenship are people that are registered and have their domicile in Latvia and received their basic or secondary education from schools where Latvian was the language of instruction or where the teaching was conducted in two languages (one of them Latvian). This applies only, if the person in question has no other citizenship, or if the permission to expatriate is given by the former host-state (if this is required in the host-state's legislation).

Which groups receive preferential treatment in applying for citizenship?

In the law from 1995 it is amended that ethnic Latvian and Livs have the right to obtain citizenship out line:

- a) Ethnic Latvian and Livs repatriating to Latvia after March 31, 1996 may receive citizenship out of turn.

Partners of these people do not have the right anymore to apply for citizenship under favourable conditions. Another difference to the previous law is that people with a perfect command of Latvian are not granted citizenship anymore.

What has to be done to successfully undergo naturalisation?

A difference in the new naturalization requirements was that a certain group of people is exempted from all knowledge exams. This includes the Latvian language test, the test on the fundamental principles of the Constitution, the test of the national anthem and the history test. The is true for the following groups:

- a) 1st category invalids with permanent invalidity, 2nd and 3rd -category speech, optic and hearing invalids.
- b) Individuals that graduated from secondary, vocational or higher educational establishments, where Latvian was the language of instruction.
- c) Person who made an outstanding service for Latvia (exempted from almost all naturalisation requirements).

For the following group of pensioners (65 and older), who fulfil one of the following requirements all knowledge exams are waived as well:

- c) Ethnic Latvian and Livs repatriating to Latvia after March 31, 1996.
- d) Former USSR- citizens and people who actually had the right to receive Latvian citizenship due to the *Law on Citizenship* of 1919, but did not use this possibility. This applies for permanent residents of Latvia at the time when this law comes into force. Furthermore, the descendants of these people and also their spouses (if the marriage lasted at least 10 years).
- e) Individuals and their descendants, who legally entered and permanently resided in Latvia as by the 17th of June 1940 and are residents in Latvia, when this law came

into force (an exception is: those who fulfill these requirements, but entered Latvia because of the Mutual Assistance Pact between Latvia and the USSR of October the 5th 1939).

- f) People (their descendants) who under German occupation (1941-1945) were brought to Latvia against their will and stayed there after the German army left and, if there are permanent residents of Latvia.
- g) Persons who graduated from secondary schools (a school up to the 10th grade), vocational schools, higher educational establishments with Latvian as language of instruction.
- h) Former Estonian and Lithuanian citizens and their descendants, permanently residing in Latvia as by the 17th of June 1940.
- i) Spouses of citizens of Latvia, if they are engaged in a marriage at least 10 years (also in the case if the other spouse died after at least ten years of marriage).

Just like in the previous law, for applicants in this category from c) to i) the residence requirement and the requirement not to be convicted for a crime are waived.

Who is excluded from the possibility to become part of the citizenry?

No changes in the law occurred.

9.11 Effect analysis of the *Law on Citizenship 1995*

Which groups obtain citizenship automatically?

The amendments of 1995 are of crucial importance, because they gave the *Law on Citizenship* a more obvious ethnic twist and broke with the state-continuity concept. In article 2, section 1, subsection 2, for the first time in this law explicit ethnic reference is made. Ethnic Latvian and Livs returning to Latvia before the March 31, 1996 receive Latvian citizenship out of turn and do not have to fulfil naturalisation requirements at all, regardless if they were citizens of interwar Latvia or not.²¹³ In contrast, the vast number of non-ethnic Latvians have a non-citizen status (which they gained in 1995) and they have to undergo a strict process of naturalization, if they want to be part of the citizenry. Large parts of this population are

²¹³ The group of the Livs is a minority of today approximately 200 people. They are believed to live the longest on the territory which today is Latvia. The Livonian language is a Finno-Ugric language and enjoys special protection of the Latvian state: „...except for the Liv language, [all other languages] shall be regarded as a foreign language.“ See in: *The Latvian State Language Law*, Article 5: Ibid.

excluded from the granting of citizenship, because they were in one or the other way connected to the army or the secret service of the Soviet Union.

At the same time, women who lost citizenship due to the citizenship law of 1919 are entitled to restore their citizenship. This special provision is meant for women, who through marrying a foreigner lost their Latvian citizenship in the time interwar-period lost Latvian citizenship. Here again it becomes clear that the replenishment of the citizenry with interwar citizens, is preferred to replenishment through Soviet-era settlers.

Persons, who acquired an education at a school, where Latvian or Latvian/Russian (in the latter case both languages) were languages of instruction and are residents of Latvia and have their domicile in Latvia obtain citizenship without naturalisation. This provision breaks with the continuity thesis, since it makes the language of instruction in secondary school to a pre-condition of automatic citizenship (and not the interwar citizenship). It has to be noted that in schools with Latvian as language of instruction, the majority of people were of Latvian stock and the same is true for mixed schools.

Furthermore, children whose parents are both Latvian citizens as well as orphans receive citizenship automatically. Concerning the former regulation, one can say that it is practice in most states of the world that the children of two citizen parents obtain citizenship automatically. Therefore this guideline

While preferential provisions of automatic citizenship apply mostly for ethnic Latvians, the long difficult process of naturalisation concerns only ethnic minorities (99% of all ethnic Latvians were citizens and 99% of all non-citizens were non-Latvians in 1996)²¹⁴.

In article 3 the right to be granted citizenship without naturalisation for children of a Latvian parent and an alien is stated. What is not mentioned is the case, if a Latvian citizen and a stateless person are going to have a child. The child is in this case born stateless, although born in independent Latvia. The same is true for children born to two stateless persons, two aliens or to an alien and a stateless person. These provisions do not favour a *jus soli*, where as an ideal type everybody born on the territory of a country is eligible to automatic citizenship (for example children born over the US-American air space to two aliens receive US-citizenship). In consequence, under this law non-citizens are born in Latvia even if their parents and their grand parents were born on the territory of today's Latvia.²¹⁵

²¹⁴ Антане, Айна; Цилевич, Борис: Латвия. „Модель Этнополитического Мониторинга”. Москва, 1997, с. 44. [Antane, Aina; Tsilevich, Boris: Latvia. „The Model of Ethnopolitical Monitoring”. Moscow, 1997, p. 44].

²¹⁵ Also in Western countries, that are generally regarded as democratic this practice can prevail. In West Germany and later in Germany, children born in Germany to Turkish immigrants did not receive automatic citizenship (in 2000 this changed and automatic citizenship was available). Compared to the procedure in Germany until 2000 the difference to Latvia is however striking. In difference from Turkish people living in

Many of the people affected by the lack of citizenship due to the consequences of the continuity thesis do not accept the government policy in regards to citizenship. Katemirov, chairman of a NGO in Riga, reflects the widespread stance that he does not understand why he should apply for citizenship in a country, where he was born and lived all his life. He maintains that he is automatically entitled to Latvian citizenship.²¹⁶

Which groups receive preferential treatment in applying for citizenship?

The most profound changes in the in comparison to the law of 1995 is that people that are 65 and older are exempted from all knowledge exams. Furthermore for handicapped people all knowledge exams are waived. Moreover, graduates from Latvian schools, who have no domicile in Latvia can naturalise due to the same eased regulations. In addition to that, in the *Law on Citizenship* from 1995 the provision was cancelled that people who speak Latvian perfectly can receive earlier. These aforementioned simplified naturalisation requirements do only apply to a very small part of the Soviet-era settlers.

For Soviet-era immigrants the application process started in 1996. The Latvian government argued in 1994 that from the time, when this law comes into force, everybody who is eligible due to the „window system“ would apply for citizenship from 1996 on, and the administration would be flooded by application.²¹⁷

The article that addresses preferential treatment in this law makes explicit references to ethnicity. People, who are of Latvian or Liv ancestry, have the right to return to repatriate to Latvia and receive citizenship without undergoing the naturalization process (if the register before 31st of March 1996) or can apply for citizenship earlier than others, if the return to Latvia after 31st of March 1996.

In the case of former USSR citizens that were entitled to Latvian citizenship due to the *Law on Citizenship* from 1919, the possibility to become citizenship earlier is given as well.

What has to be done to successfully undergo naturalisation?

The exemption made in the law is comprehensive. In difference to the old law, graduates from schools with Latvian language of instructions are not only exempted from the Latvian language tests, but also from all other knowledge exams.

Germany, nowadays non-citizens, living in Latvia were holding Soviet Union citizenship (they were citizens of the same country as ethnic Latvians). In 1991 all Soviet immigrants to Latvia lost Soviet Union citizenship, became stateless, but did not obtain citizenship of the now independent Latvia. However, some of these people opted for Russian citizenship, which was available for them. Others chose also Ukrainian and Belorussian citizenship and stayed in Latvia.

²¹⁶ Interview with Dimtrij, Katemirov (NGO: Infozone Lab), Riga, (06.06.2008).

²¹⁷ Interview with Liga Luksos

In addition, people over 65 (falling under the respective category) are also exempted from all knowledge exams. This makes it easier for old people to naturalise. But the ease of naturalization is not applying for Soviet era settlers in retirement age.

Who is excluded from the possibility to become part of the citizenry?

No changes were made her.

9.12 The new Law on Citizenship from 1998

The Law on Citizenship 1998 paved the way for large-scale naturalization of non-citizens. The window system was abolished and children to non-citizens were conferred citizenship, if their parents registered them. The naturalisation requirements were changed.

9.13 Ideational analysis of the *Law on Citizenship 1995*

Which groups obtain citizenship automatically?

While in the previous law there was a deadline for the granting of citizenship to ethnic Latvian and Livs without naturalisation, this deadline is absent in the new law. The only requirement is as in the old law from 1994 to be a registered resident of Latvia.

In this new law children of stateless or non-citizen parents are named for the first time. These children have the right to obtain Latvian citizenship without fulfilling the requirements of naturalization, provided they meet the following provisions:

- a) The child did not serve a prison term exceeding five years.
- b) Latvia is the permanent place of residence.
- c) The child has all his life been a stateless or non-citizen.

Parents have to submit an application for their child in which they express their wish that the child should acquire citizenship until the child reaches the age of 15 (if they want their child to receive citizenship without undergoing the process of naturalization). In order to be able to do so, parents must be registered in the Residents register and have been permanent residents of Latvia for at least five years.

Parents being stateless, non-citizens or an adoptive parent, who have the custody of the child, have the right to submit such an application. In case, one of the parents is dead, the other parent can file such an application alone. In case a mother has the sole right of custody, she is able to submit such an application without the biological fathers consent.

Provided, parents do not submit such an application before the child reaches the age of 15, the child has to provide one of the following documents to become citizen:

- a) A graduate document from a secondary specialized education or vocational education with Latvian language instruction.
- b) A document certifying that the under-aged knows Latvian.

Parents, who want their child to acquire citizenship in the above-named procedure have to certify in the application that they will help their child: „...to learn the Latvian language as the state language, to acquire an education and to inculcate in him/her a respect for the Republic of Latvia and loyalty to it.”²¹⁸ This simplified way of naturalisation is open until the child turns 18. Afterwards only the usual way of naturalisation is available.

As in all previous legal documents, in the *Law on Citizenship* people who performed an outstanding service for the Republic of Latvia can be granted Latvian citizenship without undergoing naturalisation. The single difference is now that granting citizenship to these persons is solely possible, if the person in question has no right to naturalisation under the conditions set up in this law as established by article 11 (Restrictions for naturalisation).²¹⁹

Which groups receive preferential treatment in applying for citizenship?

The following groups are subject to eased naturalisation:

The applications of children that have reached the age of 15 and applied for citizenship, shall be reviewed in their order of submission.

Groups which applications can be reviewed out of order (all groups have to meet 5 years of residency, except ethnic Latvians and Livs):

- a) Ethnic Latvian and Livs repatriating to Latvia.
- b) Former Estonian and Lithuanian citizens and their descendants, permanently residing in Latvia as by June 17th 1940.

²¹⁸ *Law on Citizenship* (1998), Article 3¹, Section 4:

<http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan018407.pdf> (05.06.2008).

²¹⁹ Citizenship in that way obtained the ethnic Russian artist Marija Naumova from Latvia, winner of the Eurovision contest in 2002. She stated that Russian artists were discriminated against on ethnic and political grounds in the Baltic countries.

- c) A spouse who was married to a Latvian citizen for at least 10 years.
- d) Persons, who on September 1, 1939 were citizens of Poland and their descendants.

Here the citizens of Poland turn up as a new group that was not mentioned in the old Law on Citizenship. At the same time some groups have been dropped out of this new article. Thus they do not any longer receive preferential treatment during naturalisation. Groups not mentioned anymore are: Former USSR citizens who were entitled to Latvian citizenship, due to the *Law on Citizenship* of 1919 but did not use this possibility, people who were deported to Latvia from 1941 to 1945 and stayed there, persons that received secondary education partly or fully in Latvian and permanent residents (but not citizens) of Latvia before June 17, 1940.

Concerning the exemption from requirements, in the new law only some parts of the knowledge examinations are waived for the following groups:

- a) Persons who have received an education in Latvia, with Latvian as the language of instruction shall be released from the examination of a knowledge of the Latvian language.
- b) A special procedure of examination for disabled is determined.
- c) People having reached the age of 65 are exempted from the writing of a composition in the Latvian language.
- d) A person who made an outstanding service for Latvia (exempted from almost all naturalisation requirements).

Who is excluded from the possibility to become part of the citizenry?

An important change was done in Article 11, paragraph 1, subparagraph 7. In the previous law it was said that people convicted for imprisonment longer than one year have no right to naturalise. The new law designated that already the fact of being convicted for a crime even less than a year, makes this person losing the right to naturalise.

9.14 Effect Analysis of the *Law on Citizenship* 1998

Which groups obtain citizenship automatically?

In 1998 the *Law on Citizenship* was liberalised. Most of all, the pressure of international Western organisations was the reason for this. The EU and the OSCE were the main actors

that pressed for liberalisation. Therefore several essential amendments were made to guarantee children born after the 21st of August 1991 to non-citizens eased naturalisation.²²⁰

Especially, the nationalistic parties were opposing the OSCE-proposed amendment of granting citizenship to non-citizen children and to ease some of the language requirements concerning people that reached the age of 65 (mostly non-citizens).

Guntars Krasts minister president in 1998, member of the nationalistic party „For Fatherland and Freedom“ explained that it was important to stand up to Russia: „...if we make one concession [to the Russian speakers], then they will demand more and more until we are once again controlled by them.“²²¹ The general stance in this party was that if „...20,000 [Russian] children would become Latvian citizen in just a few weeks...“ this would threaten ethnic Latvian citizenry.²²²

As the amended law was passed in the Saeima with 49 against 26 voices and 7 abstentions, the Fatherland and Freedom party collect signatures to conduct a referendum on the amendments of the citizenship law and succeeded to collect far more than the required 130,000 signatures of people opposing the amendments.²²³ Many researchers saw this as a turning point from a strict stance in the citizenship policy to a more inclusive approach.²²⁴ At the time before the referendum critical voices from the EU were to be read in all Latvian newspapers. If the referendum would be in favour of the stricter law, the accession to the EU was under question. In the end, the citizen population approved the changes by a vote of 53% against 45%.

This new law creates a legal provision through which based on ethnicity, the titular people of Latvia can return to their ethnic homeland and receive citizenship without naturalisation and without time limits. In practice this leads to the situation, where descendants of ethnic Latvians who grew up in another country and that have set foot on Latvia, can return and obtain citizenship, while non-citizens born in Latvia have to undergo naturalisation.

This provision resembles the Israeli *Law of Return*, where *jus sanguinis* is applied for Jews. Jews from all over the world can return to Israel and just after their arrival obtain citizenship (practically this law also applies to descendants with no Jewish mother, but father), while other immigrants have to meet a residency requirements of 3 years, prove a

²²⁰ Still citizenship was not granted automatically as parents had to file an application for citizenship at the authorities. See in: Interview with Ilze Brands Kehris (Head of the Human Rights Centre), Riga, 12.05.2008.

²²¹ Budryte, Dovile: Ibid.: p. 119.

²²² Ibid: p. 118.

²²³ Ibid.

²²⁴ An interesting viewpoint of an ethnic Latvian supporter is expressed by Uldis Berzins (a Latvian poet): „The referendum will show, whether we are the master of our country and are capable [of overcoming] the psychology of a servant...“. Quoted in: Onken, Eva-Clarita: Ibid.: p. 93.

command of Hebrew and have to swear an oath of loyalty to the state of Israel.²²⁵ All Jews born in Israel receive citizenship by birth, while non-Jews in Israel need to have at least one parent with citizenship. The legal principles mentioned here have very much in common with the Latvian laws.

Until recently the German *Law on Citizenship* just like the Latvian law did not provide for automatic citizenship for children born in Germany to foreign parents, thus especially children of guest worker did not obtain citizenship by birth. This has changed and due to article 4 of the new law on citizenship, these children obtain automatic citizenship if the parents had a legal residents permit in eight years.²²⁶

The German term of „*Spätaussiedler*“ refers to Germans, who settled in different parts of Eastern Europe, Russia and Central Asia, and have the right to come to Germany and obtain citizenship faster and easier than other immigrants. In both the Latvian and the German case of return-migration applicants have to prove their ethnicity by different documents. In the Soviet Union were most of the ethnic Germans returning come from, ethnicity records in birth certificates and passports were mandatory. The same is true for Latvia (as late as 2002 the mandatory record of ethnicity in Latvian passports was abolished and now people can free willingly choose to state their ethnicity in passports or not).²²⁷ Since 1997, differently to the Latvian case, these ethnic Germans have to show a command of German.²²⁸ The Latvian right to return is similarly designed to favour ethnic Latvians over other ethnic groups.

A basic change in the new citizenship law is that, now for the first time since independence some clearance is brought about the status of children born in independent Latvia to non-citizens. This law decreases the number of non-citizens in the long run. Still the procedure for obtaining citizenship is far from being easy or in any way automatic. As mentioned above, if the child submits an application at the age of 15 or later, it has to prove Latvian language knowledge. Furthermore in all cases, when a child shall be granted citizenship, parents are urged to sign a declaration in the application form, where they oblige themselves to: „...inculcate in him/her a respect for the Republic of Latvia and loyalty to it.“ After the child turned 18, citizenship is received only through the process of naturalisation. Still, this amendment was an important change in the situation of the non-citizens children, which made it easier to become citizen and enjoy political and social rights of citizens. In

²²⁵ Safran, William: „Citizenship and Nationality in a Democratic System: Approaches to Defining and Acquiring membership in the Political Community“. In: *International Political Science Review*, Vol. 18 (3) 1997, p. 326.

²²⁶ *Staatsangehörigkeitsgesetz* [German Law on Citizenship], Article 4, Section 3: <http://bundesrecht.juris.de/bundesrecht/rustag/gesamt.pdf> (03.05.2008).

²²⁷ Interview with Liga Luksos

²²⁸ Wikipedia: Spätaussiedler: <http://de.wikipedia.org/wiki/Sp%C3%A4taussiedler> (03.05.2008).

2004 the authorities sent out letters to non-citizens which children were born after 21 August 1991 and therefore had the right to receive citizenship upon registration (if they fulfilled the aforementioned requirements).²²⁹ 15,000 children were addressed and in 2004 the Naturalisation Board received a record number of applications.²³⁰ 2000 applications were registered in 2004 and almost 1800 applicants were granted citizenship, more than in 1999 and the following years together.²³¹ At the same time, the number of children eligible to this kind of naturalisation remains quite high with 15,000 non-citizen children born after 21 August 1991 without citizenship.²³² The naturalisation procedure in the new law is not equal with automatic citizenship by birth, thus children without citizenship keep being born today. Another point is that children of an alien and a stateless or non-citizen and children of two aliens are not mentioned in the *Law on Citizenship* of 1998, and thus have no right to an eased naturalisation procedure, even if born after 1991. Due to Ilze Brands Kehris the number of stateless in 2007 amounts only to 300 and the numbers of aliens to 30,000 (probably most of them citizens of Russia, Ukraine and Belorussia).²³³

Which groups receive preferential treatment in applying for citizenship?

The exemption for some groups of pensioners that were introduced in 1995, were cancelled in the new law. Now, all pensioners (and thereby also non-citizen pensioners) were only exempted from the written part of the Latvian language test. All other knowledge exams had to be passed. Thus, it got harder for a part of pensioners to naturalise. At the same time, now for the first time an exemption is made for non-citizen pensioners. The question is in how far old people are able and willing to undergo naturalization. Most of them probably will stay non-citizens.²³⁴

What has to be done to successfully undergo naturalisation?

Here no substantial changes were made.

Who is excluded from the possibility to become part of the citizenry?

²²⁹ „Human Rights in Latvia 2004”. In: Latvian Centre for Human Rights and Ethnic Studies [ed.], Riga, 2005, p. 21.

²³⁰ Kehris and Puce maintain that until December 2003 of approximately 20,000 eligible children, only 10% applied for citizenship by registration. See in: Kehris, Ilse; Puce, Ilvija: „Nationhood and Identity”. In: Juris Rozenvalds [ed.] *How democratic is Latvia: audit of democracy*, Riga, 2005, p.24.

²³¹ Ibid.

²³² Ibid.

²³³ Interview with Ilze Brand Kehris (Head of the Human Rights Centre), Riga, 12.05.2008.

²³⁴ Liga Luksos reported that from time to time people very old people undergo naturalization. Due to her, some of these peoples expressed that they want „to die as a citizen”. See in Interview with Lig Luksos.

Through the new restrictions for naturalisation people that were convicted to a prison sentence of more than one year cannot become citizens. In this way Latvia regulates the influx of these people into the body of citizens. Due to Boris Tsilevich this can be interpreted as a compensation for the easing of some restrictions in other parts of this law, in order to appease the nationalistic politicians.²³⁵

All in all, from the beginning of naturalization in 1995 until the end of 2004, approximately 85 352 non-citizens underwent naturalization and finally became citizens (with more than 21,000 applications for naturalisation as Latvia entered the EU).²³⁶ From an initial number of about 730,000 in 1995, the granting of citizenship to all long-term residents is very slow. The consequences of the exclusionist citizenship made by the Supreme Council and later enforced by the Latvian Parliament are visible: Out of 786,612 residents of Riga 330,000 were non-citizens in 1998.²³⁷ This means that a large part of population is excluded from political rights and certain social and civil rights as well.²³⁸ As by January 2008, approximately 370,000 people were non-citizens and around 45,000 aliens (although other sources estimated 60,000 aliens).²³⁹

9.15 The Law of the Republic of Latvia on the status of former USSR citizens who have neither the Latvian nor another state's citizenship 1995.

This law stipulates the creation of a new legal category the: non-citizen. Inga Reine, Official Representative of the Latvian Government before Human Rights Organisation agrees:

“...given Latvia's special historical circumstances, we have developed a somewhat unique national legal regime governing the status of the Soviet time settlers.”²⁴⁰ The responsibility for these Soviet time settlers has not the Latvian Republic, but the Russian Federation, since it is the successor of the USSR:

The available practice leads to the conclusion that the Russian Federation continues the international legal personality of the former USSR, both within the internal of the Russian Federation, as well as with respect to rights and obligations of the USSR under international law. It is therefore the position of the Latvian

²³⁵ Interview with Boris Tsilevich (MP and researcher), Riga, 12.05.2008.

²³⁶ Kehris, Ilse; Puce, Ilvija: Ibid.: p. 23.

²³⁷ Kehris, Ilse; Stalidzane, Ilona: „The Role of Regional Aspects in Dealing with Citizenship Issues”. Riga, 2003, p. 12.

²³⁸ A striking example in this regard is the city of Narva in northeastern Estonia. In the national elections of 1995 out of a population of 64,000 inhabitants, only 7000 were people were citizens and could thus take part in the elections, The vast majority was in that way banned from elections. See in: Smith, Graham: Ibid.: p. 210.

²³⁹ Naturalisation Board of Latvia: <http://www.np.gov.lv/index.php?id=469&top=469> (10.06.2008).

²⁴⁰ Reine, Inga: „Protection of stateless persons in Latvia”. In: *Seminar on Prevention of Statelessness and Protection of Stateless Persons within the European Union*, European Parliament, 26 June 2007, p. 4.: http://www.europarl.europa.eu/hearings/20070626/libe/reine_en.pdf (04.06.2008).

Government that the Russian Federation bears the primary responsibility for the former USSR citizens [now Latvian non-citizens] unless and until they or their countries of residents choose otherwise.²⁴¹

From this statement it is clear that non-citizens can naturalise, but foremost responsible for them is the Russian Federation as the legal successor of the Soviet Union. Against this background the following non-citizen law shall be reviewed.

9.16 Ideational Analysis of the *Law of the Republic of Latvia on the status of former USSR citizens who have neither the Latvian nor another state's citizenship 1995.*

Who qualifies as a non-citizen?

Former citizens of the USSR who live in Latvia, or are absent at the moment (for instance because of education, labour contract or prison sentence), who were residing prior to July 1, 1992 without limitation and who were registered in Latvia qualify as non-citizen. Furthermore these people shall not be citizens of another state.

For people (and their descendants), who at the time being are not residing in Latvia, the non-citizen status might be available as well. In order to gain this status the people in question should have lived and have been registered in Latvia as permanent residents without time limitation. Moreover they should not have the citizenship of another state. Everybody, who came to Latvia after the 1st of July 1992, cannot receive the non-citizen status. Their status is to be addressed by another law.

What rights do non-citizens have?

Non-citizens have the freedom to choose their place of residence to travel abroad and come back (if they keep a domicile in Latvia) and the right to reunite their family. In addition, non-citizens usually can't be expelled from Latvia (only if this is done in accordance with the law), non-citizens are allowed to keep their native tongue and culture as long as this is not contradicting Latvian laws and they have the right to receive a translator in courts and to choose a language for the trial.

Who is excluded from the possibility to become part of the non-citizenry?

The following group is not entitled to the non-citizen status:

- a) Military specialist and civilians sent to Latvia in order to dismantle objects of the Russian Federation.

²⁴¹ Ibid.: p. 3.

- b) People resigning from the active military after January the 28th 1992, in the case that when they joined the army they were not residents of Latvia and none of the family members is a Latvian citizen.
- c) Spouses and family members of employees of the USSR and later the Russian Federation if these family members or spouses arrived in Latvia due to the duty of their partner or family member, regardless of the time they resided in Latvia.
- d) Dwelling army units and their family members.

9.17 Effect Analysis of the *Law of the Republic of Latvia on the status of former USSR citizens who have neither the Latvian nor another state's citizenship 1995*

As this law was created it was obvious that a large number of people would not become citizens quickly.²⁴² This law was passed against the will of some political parties, who were eager to give all stateless people the status of foreigners (irregardless of the place of birth and time spent in Latvia). Before the passing of this law the legal status of Soviet immigrants was undefined. Soviet settlers and their descendents had to turn to the Department for Citizenship and Immigration in order to receive residence permits. This department became known for the disregard of Latvian laws. If a non-citizens request for permanent residence would not be decided positively, they could be subject to deportation.

After the aforementioned law was passed, the vast majority of the non-citizens residents had more clarity about their legal status and their rights.²⁴³ Altogether, the law made clear that the forcibly deportation of non-citizens from the territory of Latvia was unlawful. Furthermore it entitled non-citizens to receive a non-citizen passport, with which they could travel. Therefore this law gave non-citizens a certain legal and psychological security.²⁴⁴ Nevertheless, several thousand people could not be granted the status of non-citizens.²⁴⁵ This people were not entitled to enjoy the limited rights non-citizens had. Kruminja holds that this people were regarded by bureaucrats as „third class citizens”, fundamental human rights as for instance: free choice of residence, leaving and entering Latvia, invitation of relatives from abroad, all social benefits, to get a legal job, to get privatisation vouchers, and the registration of marriage and new born children are denied to them.²⁴⁶

²⁴² Kruminja, M.: Ibid.: p. 26.

²⁴³ Important is the fact that people who were for different reasons not included in the Register of Residents had no right to a non-citizen status.

²⁴⁴ Kruminja holds that these rights were often openly violated against, partly due to the unclear formulations. See in: Kruminja, M.: Ibid. p. 27.

²⁴⁵ Latvian Human Rights Committee: www.minelres.lv/count/non_cit-rights_1.htm (08.06.2008).

²⁴⁶ Ibid.: p. 32.

In practice, after the law was implemented in April 1995 there were still some problems. As by autumn 1996, non-citizens passports were still not issued, and non-citizens willing to travel abroad had to apply in advance for a so-called „Return Guarantee“, to be able to enter Latvia again.²⁴⁷ Several differences in the rights of citizens and non-citizens were introduced since the Resolution on Restoration 1991. In 1999, 57 differences in the rights of citizens were in force.²⁴⁸ These differences serve as a main hinder for the non-citizens living in Latvia. As an example at the time being, non-citizens cannot occupy a large number of occupations. The following jobs in the public sector are for citizens only: Senior Public Official, Civil Servants, Constitutional Judges, Public Prosecutors, State Security Officers, Diplomatic and Consular Service, Sworn surveyors, Sworn evaluators, Police Service, Prison Guard, State Firefighting and Rescue Service, Border guard, State Revenue Service, Official of the Labour inspection.²⁴⁹ For the private sector there are some restrictions as well. The following jobs can only be occupied by citizens: Sworn Advocates and Advocate’s Assistants, Sworn Notaries and Notary’s Assistants, Court bailiffs, Heads of a detective agency, Aircraft captain, manager of a security guard, civil positions in army units.²⁵⁰ There are also a whole range of rights that are only enjoyed by citizens, such as: to be elected as jurors, to serve in the National Guard, to establish political parties, to participate in local elections. Furthermore should political parties always have a share of non-citizens lower than 50% non-citizens.²⁵¹ In the sphere of property rights certain restrictions for non-citizens are in force until today.

During the privatization of the former Soviet-owned property non-citizens received considerable less privatisation vouchers. Only citizens were guaranteed their investments abroad by the Latvian government (in force from 1991-1998).²⁵² Moreover, trade with weapons is only allowed for citizens and EU-citizens. Furthermore, to some educational establishments only citizens are admitted.²⁵³ In addition to that, a citizen can only be deprived of his or her citizenship status by court decision, a non-citizen however can be deprived of his or her status by administrative decision.²⁵⁴ Those non-citizens who left Latvia in the beginning of the 1990’s and received compensation payments for this, have lost the right to enter Latvia for residency (the government rewarded voluntary repatriation financially, due to

²⁴⁷ Antane, Aina; Tsilevich, Boris: *Ibid.*: p. 47.

²⁴⁸ Minority related national legislation (Latvia):
http://www.minelres.lv/count/non_cit-rights_1.htm (09.06.2008).

²⁴⁹ The Latvian Greens European Free Alliance Party:
http://www.pctvl.lv/?lang=en&mode=party&submode=background&page_id=235 (09.06.2008).

²⁵⁰ *Ibid.*

²⁵¹ *Ibid.*

²⁵² *Ibid.*

²⁵³ *Ibid.*

²⁵⁴ *Ibid.*

a lack of means, soon these rewards were cancelled).²⁵⁵ In terms of family reunification, non-citizens are likewise disadvantaged. Reunification with a grown-up child without Latvian citizenship is reserved only for Latvian citizenship.²⁵⁶

The time dimension in the introduction of limitation is of importance. With regard to the restriction for non-citizens, one has to say that many restrictions were in place in the beginning of the 1990's, in the starting process of market economy. In this crucial period restriction hindered non-citizens from having the same opportunities as citizens. Nowadays, a lot of these restrictions are abolished, but the privatisation of state property is already over (in the beginning 1990's limitations for founder of banks and joint-stock companies were in force that discriminated against non-citizens).

A practical example for the restriction of political rights of non-citizens is the case of the Union of Non-citizens. In 1994, several non-citizens founded the Union of Non-citizens in Latvia. In the same year this organisation was refused to register as political organisation by the Ministry of Justice, because political activity was foreseen by a constitutional law as prerogative for citizens only.²⁵⁷

10. Conclusion

It became obvious in the examination of ethnic democracy that a restrictive approach to citizenship is favoured. The domination of one ethnic group is in that way strengthened.

In Smooha's model the extending of individual rights to all permanent residents is crucial to ethnic democracy (as a result most non-core members hold a „second class citizenship“). As discussed above, Latvia does not fulfil this criterion. Nevertheless, Smooha's model is only including Israel in the borders of 1948 and not the Gaza stripe and West bank. Smith sees no problem in combining ethnic democracy and the not granting of citizenship to permanent residents. In contrast, Linz and Stepan, created a model similar to ethnic democracy for states that are on the way to democratisation. They regard -just as Smith-the not extending of citizenship to the permanent resident population as a constituent part of their model. As I see it, ethnic democracy allows both for not extending citizenship and for „second class citizenship“ (these two are not mutually exclusive). In an ethnic democracy, citizenship issues are of prominent importance, the access to citizenship is as

²⁵⁵ Ibid.

²⁵⁶ Ibid.

²⁵⁷ Pabriks, Artis: „From Nationalism to Ethnic Policy: The Latvian Nation in the Present and in the Past“. In: *Berliner Interuniversitäre Arbeitsgruppe*, Vol. 17, Berlin, 1999, p. 164.

much restricted as possible for non-core members, but naturalisation under strict conditions is possible. That naturalisation is available at all, rests upon the state's commitment to democracy and the need for international recognition, which enhances the impact of foreign actors. This was to be encountered, when Latvian Parliament in 1993 passed a quota system for naturalisation, which could be as low as 2000 naturalisations are year, but due to international pressure this system was abolished and the „window system” was introduced.

On the other hand, access to citizenship by core-ethnic members is easy and encouraged by the government. In this light the changes in *Law on Citizenship* in 1995 that paved the way for granting automatic citizenship to ethnic Latvian and Livs (that were not interwar citizens of Latvia) should be seen. In an ethnic democracy, the state serves the interest of the ethnic core group, policies in the areas as for example language and education are potentially directed against other ethnic groups and in favour of the language and culture of the core-group. The restrictive provisions for language use in Latvia are a case in point here.

I further conclude that ethnic democracy is by definition applicable for both, restored and already existing states. The most well-known model of ethnic democracy by Smooha rests on a case-study of Israel, which is clearly a restored state. Nevertheless, features of ethnic democracy can be applied for already existing states.

When reviewing the great extend of exclusion in the Latvian citizenship policy then similarities with the model of ethnic democracy become obvious.

Ethnic democracy as a model is in my eyes not a democratic model, since every fiber of this system rests on inequality. Nonetheless, for me not the term „ethnic democracy” was of interest, but the useful features it provides for a closer understanding of political systems and it's implications for citizenship in today's world.

The model of liberal democracy is of course not as sound on issues like citizenship and ethnicity as ethnic democracy. Liberal democracy emphasises the right of the individual vis-à-vis the state and the non-interference of the state into economy issues.²⁵⁸ The exclusion of approximately 30% of the population (the vast majority of them non-titulars) is difficult to combine with the principles of liberal democratic. To ban one third of the permanent residents from the participation in state elections, although they pay taxes and are subject to the jurisdiction of the country of residence (where half of them are born) runs counter to liberal

²⁵⁸ Steen maintains that economical elites accept the expanding state bureaucracy and state responsibility in the economy and welfare, which stands in contrast to a more liberal political rhetoric. He explains this by the fact that in return for the state interference the perceived threat from the large minority group is handled by the state. See in: Steen, Anton: „Ethnic Relations, Elites and Democracy in the Baltic States”. In: *Journal of Communist Studies and Transition Politics*, Vol. 16 (4), 2000, p. 80.

democracy. Particularly contrary to liberal democracy is that these people before 1991 had exactly the same legal rights and the same Soviet citizenship before independence.

Moreover, considering that ethnic Latvians and Livs do not have to fulfill any naturalisation requirements, even if they were not citizens of interwar Latvia, appears inconsistent with equality before the law, a central feature of liberal democracy.

The possibility to register children of non-citizens as Latvian citizens after the law amendments in 1998, introduced a more *jus soli* orientated element into the Latvian legislation on citizenship. Although citizenship is not gained fully automatically, the new law is from this perspective more conform to liberal democracy.

On the other hand, from the Resolution of 1991 to 1995 (introduction of the non-citizen law), Soviet migrants lived in a legal limbo not knowing if they would be allowed to stay. This legal uncertainty is not in line with liberal democracy.

In addition to that, the exclusion from naturalisation for army staff and their family members that settled down in Latvia after 1940 is at least critical in regard to liberal democracy. To deny them naturalisation altogether is at least problematic, considering that they were army members of the common state, the Soviet Union and furthermore one can assume that at least a part of them would also be loyal to the new state. Similarly problematic is the exclusion of former KGB employees from the possibility to become citizens, if they (or their ancestors) came to Latvia after 1940, while KGB-employees (or their parents) that were citizens before 1940 are conferred citizenship automatically.

By and large, the core problem of the citizenship issue is not in the first place that the naturalisation requirements are too harsh, but that the strict interpretation of state-continuity led to the long-term exclusion of one third of the permanent population from political and social rights.²⁵⁹ In 2008, around 18% of the permanent population did not naturalise and is thus not in possession of citizenship.

As far as Latvian citizenship policy is concerned, I hold that this policy in essentials parts is not conform to the principles of liberal democracy, since it was and still is based on large-scale exclusion.

The effects the legal continuity had for the Latvian society are huge. In the elections to the first Saeima after independence in 1993 out of 100 MP's 89 were ethnic Latvians, 6

²⁵⁹ Ilse Kehris sees the decision to grant automatic citizenship only to interwar citizens as logical. For her mainly the naturalization requirements, as for examples insulting questions in the history test are of concern. See in: Interview with Ilse, Kehris. Ina Druviete also views legal restoration as perfectly suitable for Latvia. See in interview with: Ina, Druviete (Member of Parliament, Lecturer for Sociolinguistic in Riga, Former Minister of Education, Contributor to the Language Laws), Riga, 11.05.2008.

Russian, 1 Jewish, 1 Pole, 1 Liv, 1 Belorussian, 1 Greek.²⁶⁰ In 1994 ethnic Latvians constituted ca. 54% of the population, 78,7% of all citizens, 81% of all citizens in voting age, 89% of all MP's and 100% of all ministers.²⁶¹ Only two minister since 1991 were not ethnic Latvian and 90% of the staff in state bureaucracy are ethnic Latvians.²⁶² Moreover, a political party, which represents the position of the minorities, was never part of a ruling coalition since independence.²⁶³

At the same time, non-citizens are not able to stand for office or to vote in national or local election, which limits their say and their representation in politics in general and made it possible to conduct policy against their interest.²⁶⁴

The Latvian State Language Law declares all languages other than Latvian and Liv as foreign languages and does not allow for (official) communication in other languages. The Latvian language became the sole language in all spheres that are in anyway connected to the state. In Daugavpils, a city of 100,000 people, 85% are Russophone, but all communication with state institutions has to be conducted in Latvian only.²⁶⁵ The State Language Centre was created to supervise the use of language and the implementation of the *State Language Law* (and can fine for example private companies for not using sufficiently Latvian). In the beginning their task was to conduct language test in all state agencies all over Latvia. From 1992 until today 500,000 people underwent these Latvian language tests.²⁶⁶ A poor command of Latvian was a reason to lay off an employee.

Until 2002 politicians that stood for elections needed the highest command of Latvia and until recently their certificated knowledge was subject to State Language Inspectors.²⁶⁷ As already said, wide areas of the state sector are not accessible for non-citizens, but this is

²⁶⁰ Kruminja, M.: Ibid.: p. 14.

²⁶¹ Ibid.

²⁶² Interview with Juris, Rozenvalds (Professor of History at the Latvian State University, Former Member of the Independence Movement), Riga (12.05.2008).

²⁶³ Interview with Dimitrij Petrenko

²⁶⁴ An example is the representation of minority representatives in local government. In 1994, in the City of Riga where Latvians make up 40% of the populations out of 60 deputies of the City Council 56 were Latvians. In Daugavpils Latvians constitute 14% of the population. In 1994, 7 out of 15 deputies of the City Council of Daugavpils. In other big cities like Elgave, Jurmale, Lipae, Ventspils not a single non-Latvian is represented in the City Council. See in: Antane, Aina; Tsilevich, Boris: Ibid.: p. 49.

²⁶⁵ As Agris Timura the director of the State Language Centre states, this city is the biggest problem of his department, since people there due to him never learned the state language, fail to use it in daily live and do not even want to learn it. See in: Interview with Agris, Timushka (Director of the State Language Centre), Riga, 07.02.2008.

²⁶⁶ Interview with Ina Druviete.

²⁶⁷ The highest level of Latvian knowledge requires to be: „Able to converse in the second language absolutely fluently on both social life and professional topics or on subjects related to the position occupied. Able to have a conversation according to the situation, in different styles, able to vary the means of expression. Able to compose texts of different complexity.“ See in: Regulation No. 296, In: „Implementation of the Latvian State Language Law. A Practice Guide for the State Language Inspectors“. In: OSCE High Commissioner on National Minorities [ed.], p. 247.

also true for about 40 occupations in the private sector, that are in one or the other way connected to the state.²⁶⁸ In addition for almost every job even in the private sector a Latvian language certificate is necessary.

I am convinced that these legal provision, which clearly are against the interest of the minorities were only possible through the disenfranchisement of 30% of the non-ethnic Latvian population. The small share of non-ethnic Latvian that had voting rights in the elections in 1993 and 1995 did not counterweight the nationalistic agendas of ethnic Latvian politicians. In this regard, the interests of non-ethnic Latvians were not taken into account. Instead the state elite strived after a one-community state.²⁶⁹ To establish a one-community state in a context of a multi-ethnic country with large minorities (ca. 35-40% Russophones) is only possible through the means of exclusion from certain rights. From 1996 naturalisation was open to parts of the non-citizenry, but when these people became citizens, then the one-community approach was already cemented into society and the new citizens had have very limited chances to change this.²⁷⁰

Another important consequence is that a big part of the population was alienated from the state: „The Latvian state has lost its legitimacy in the eyes of some part of its inhabitants and weakened both its state authority and power.“²⁷¹ In an opinion poll on the views of non-citizens towards naturalization the question was posed: Why don't you use the opportunity to acquire Latvian citizenship? The answer, which was given most frequently, was: I believe that I am automatically entitled to citizenship.²⁷² This points to a strong sense of alienation from the Latvian state.

A further serious consequence, is a marginalisation of non-citizens and partly also of the non-ethnic Latvian citizens. In an interview with Dimitrij Petrenkow, he reported that for studying at a Latvian university every student had to pass a Latvian language test, which was entirely based on grammatical exceptions (he himself underwent this test).²⁷³ Additionally, in the entrance test for the juridical faculty, the most prestigious faculty, applicants during the 90's had to end the verses of Latvian folk songs, in order to be accepted as student.²⁷⁴ This corresponds to information of Katemirov, who searched for a Russophone notary in Riga, but

²⁶⁸ Interview with Nils, Muizieks (Lecturer at the University of Latvia, Former Minister of Society Integration Affairs), Riga, 08.02.2008.

²⁶⁹ Steen argues: The political entrepreneurs of the Baltic republics had a special incentive to mobilize ethnic resources when the old power was eroding: independence and ethnic domination became the best guarantees for their careers. See in: Steen, Anton: *Ibid.*: p. 70.

²⁷¹ Pabriks, Artis: „From Nationalism to Ethnic Policy: The Latvian Nation in the Present and in the Past“. In: *Berliner Interuniversitäre Arbeitsgruppe*, Vol. 17, Berlin, 1999, p. 164.

²⁷² Kehris, Ilse; Stalidzane, Ilona: *Ibid.*: p. 67.

²⁷³ Interview with Dimitrijs, Petrenko (Researcher at the Latvian Centre for Human Rights), Riga, 07.02.2008).

²⁷⁴ *Ibid.*

was not able to find one in whole Riga (also very few lawyers and architects are to be found due to him).²⁷⁵

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Dimitrij, Katemirov (NGO: Infozone Lab),
Nils, Muizieks (Lecturer at the University of Latvia, Former Minister of Society Integration Affairs),
Agris, Timushka (Director of the State Language Centre),
Dimitrijs, Petrenko (Researcher at the Latvian Centre for Human Rights).

(May 2008):

Juris, Rozenvalds (Professor of History at the Latvian State University, Former Member of the Independence Movement),
Kehris, Ilse (Head of the Human Rights Centre in Riga),
Ina, Druvieta (Member of Parliament, Lecturer for Sociolinguistic in Riga, Former Minister of Education, Contributor to the Language Laws),
Oskars, Karstens (Minister of Integration),
Liga, Luksos (Official of the Naturalisation Board Riga),
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12. Appendix

12.1 Changes in the ethnic composition of Latvia

Population					
	1935	1989	2000	2004	2007
POPULATION - TOTAL	1.905.936	2.666.567	2.377.383	2.319.203	2.281.305
Latvians	1.467.035	1.387.757	1.370.703	1.359.582	1.346.686
Russians	168.266	905.515	703.243	668.887	645.435
Belorussians	26.803	119.702	97.150	89.984	85.274
Ukrainians	1.844	92.101	63.644	59.860	57.642
Poles	48.637	60.416	59.505	57.227	54.744
Lithuanians	22.843	34.630	33.430	32.045	30.975
Jews	93.370	22.897	10.385	9.930	10.291
Roma	3.839	7.044	8.205	8.420	8.545
Germans	62.116	3.783	3.465	3.704	4.215
Estonians	6.928	3.312	2.652	2.554	2.496
Other	4.255	29.410	25.001	27.010	35.002
Percent					
	1935	1989	2000	2004	2007
POPULATION - TOTAL	100	100	100	100	100
Latvians	77	52	57,7	58,6	59
Russians	8,8	34	29,6	28,8	28,3
Belorussians	1,4	4,5	4,1	3,9	3,7
Ukrainians	0,1	3,5	2,7	2,6	2,5
Poles	2,5	2,3	2,5	2,5	2,4
Lithuanians	1,2	1,3	1,4	1,4	1,4
Jews	4,9	0,9	0,4	0,4	0,5
Roma	0,2	0,3	0,3	0,4	0,4
Germans	3,3	0,1	0,1	0,2	0,2
Estonians	0,4	0,1	0,1	0,1	0,1
Other	0,2	1,0	1,1	1,1	1,5

(Source: Central Statistical Bureau of Latvia)²⁷⁶

²⁷⁶ Central Statistical Bureau of Latvia: <http://data.csb.gov.lv/Dialog/varval.asp?ma=04-17a&ti=4%2D17%2E+RESIDENT+POPULATION+BY+ETHNICITY+AT+THE+BEGINNING+OF+THE+YEAR+++&path=../DATABASEEN/Iedzsoc/Annual%20statistical%20data/04.%20Population/&lang=1> (8.12.07)

12.2 The Share of Citizens in the Population

	Residents	%	Citizens	%
Latvians	1 345 100	59.1	1 342 215	99.8
Russians	638 410	28.0	367 035	57.5
Belorussians	83 799	3.7	31 196	37.2
Ukrainians	57 281	2.5	17 442	30.4
Poles	54 121	2.4	40 635	75.1
Lithuanians	30 780	1.4	18 385	59.7
Jews	10 168	0.4	6507	64.0
Roma	8593	0.4	8000	93.1
Germans	4371	0.2	2236	51.2
Tartar	2863	0.1	809	28.3
Armenians	2759	0.1	1058	38.3
Estonians	2504	0.1	1496	59.7
Other	35 533	1.6	20 494	57.7
Total	2 276 282	100	1 857 508	81.6

(Source: Ministry of Foreign Affairs of Latvia)²⁷⁷

12.3 The Share of non-citizens in the Population

	Citizens	Non-citizens	Aliens	Total
As at 05.10.1995		731 078		
As at 01.07.1996	1 768 567		704 345	2 472 912
As at 20.05.1997	1 766 800	665 148	11 833	2 443 781
As at 01.07.1998	1 768 415	633 834	19 987	2 422 236
As at 01.01.1999	1 769 419	619 971	23 098	2 412 488
As at 01.01.2000	1 773 135	588 225	26 108	2 387 468
As at 01.07.2000	1 776 004	568 195	27 134	2 371 333
As at 01.01.2001	1 780 507	551 064	28 863	2 360 434
As at 01.07.2001	1 783 974	534 747	30 747	2 349 468
As at 01.01.2002	1 786 361	523 095	30 472	2 339 928
As at 01.01.2003	1 795 454	504 277	31 736	2 331 467
As at 01.01.2004	1 802 851	481 352	33 251	2 317 454
As at 01.01.2005	1 816 024	452 033	34 875	2 302 932
As at 01.01.2006	1 834 282	418 440	38 043	2 290 765
As at 16.04.2007.	1 851 670	386 322	42 374	2 280 366
As at 01.01.2008.	1 857 508	372 421	46 353	2 276 282

(Source: Naturalisation Board of Latvia)²⁷⁸

²⁷⁷ Ministry of Foreign Affairs of Latvia: <http://www.mfa.gov.lv/en/policy/4641/4642/4649/> (08.04.2008).

²⁷⁸ Naturalisation Board of Latvia: <http://www.np.gov.lv/index.php?id=469&top=469> (10.06. 2008)

12.4 Differences between rights of Latvian citizens and non-citizens - Latvian residents

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

b) Private Sector Jobs reserved for Latvian citizens only:	
17. Sworn Advocates and Advocate's Assistants	The Law "On Advocacy", adopted on 27.04.93, Art.14(1) and 83
18. Sworn Notaries and Notary's Assistants	Notary Law , adopted on 01.06.93, Art.9(1), 147(1)
19. Court bailiffs	The Court Bailiffs Law, adopted on 24.10.02, Art. 12(1)
20. Aircraft captain	The Law "On Aviation", adopted on 05.10.94, Art.35
21. The managers of a security guard	The Law "Security Guard Activities", adopted on 29.10.1998, Art. 6
22. Only Latvian citizen has the right to be employed in civil positions for army units	"Military Service Law", adopted on 30.05.2002, Art.16.
23. Non-citizen with pharmaceutical degree obtained outside EU can be licensed to practice only after one-year probation period	"Pharmacy Law", adopted on 10.04.97, Art. 38(3), as amended on 16.04.2003
c) Public sector Only citizens have the right:	
24. To be elected as jurors	The Law "On Judicial Power" adopted on 15.12.1992, Art.56
25. To serve in the National Guard	The Law "On National Guard", adopted on 06.04.93, Art. 5(1)
26. To establish political parties	The Law "On Public Organizations and Associations", adopted on 15.12.92, Art. 43
27. Political parties are allowed to operate if at least 1/2 of the members are citizens	The Law "On Public Organizations and Associations", adopted on 15.12.92, Art. 45 with amendments adopted on 05.04.95
28. To be elected to the National Radio and Television Council	The Radio and Television Law, adopted on 24.08.1995, Art.42
29. To participate in local elections	The City Dome and Rural District Councils Election Law, adopted on 13.01.94, Art. 5.
30. To be elected to Commissions and working groups of municipalities	The statute of Riga Municipality with amendment, adopted on 22.05.2001 establishes this restriction only for Auditing Commission (para 8). In some other municipalities (for example, in Jelgava) the restriction is expanded to all commissions.
31. To elect and to be elected to the management of the Council of students of the University of Latvia	Statute (Constitution) of the Students' Self – Government of the University of Latvia, 1998, Art.8 (in force till 2002)
32. Contacts with foreign citizens, access to cultural monuments and mass media are guaranteed to citizens only in some of the	5 Agreements, signed from 7.08.92 to 10.05.99 (see List, 1)

Agreements	
II. Property Rights Only citizens have the right to:	
33. Acquire the land into ownership with building on it if the land was not owned by them before 22.07.40	The Law "On the Land Reform in the Cities of LR", adopted on 20.11.91, Art. 12(1),(2)
34. A judicial person has the right to acquire the land plot into ownership in the LR cities if more than a half of its statute capital belongs to LR citizens. Should this ratio be changed, the deprivation of the land plot is envisaged, see	The Law "On the Land Reform in the Cities of LR", adopted on 20.11.91, Art. 20
35. Similar to No.35 limitation for judicial persons when buying land plots in rural areas	The Law "On the Land Privatization in Rural Regions", adopted on 09.07.92, Art. 28
36. Every citizen of Latvia is allotted 15 certificates more than a non-citizen. A non-citizen born outside Latvia gets another 5 certificates less. One certificate is an equivalent of state property volume, created during 1 year of a person's life	The Law "On Privatization Certificates", adopted on 16.03.95, Art. 5 (2), (4)
37. Non-citizens who arrived in Latvia after the retirement age (60 for men, 55 for women) and who had less than 5 years of hired employment receive no privatization certificates	The Law "On Privatization Certificates", adopted on 16.03.95, Art 5 (4)
38. A Latvian citizen is allotted with certificates if he lived in Latvia before 31.12.1992 and at any time was registered as permanent inhabitant. Non-citizen of Latvia is allotted with certificates since the last arrival to Latvia only and having purpose for the permanent living in Latvia.	The Law "On Privatization Certificates", adopted on 16.03.95, Art 5 (3)
39. Only citizens and legal entities are guaranteed the protection of their investments abroad	25 Agreements, adopted within the period 26.08.91-17.06.98 (see List, 2)
40. Protection of intellectual property abroad is guaranteed by some bilateral Agreements to citizens only	2 Agreements with 5 states, adopted within the period 21.11.95-07.12.95 (see List, 3)
III. Private enterprise	
41. Licenses for air transportation abroad are guaranteed, by bilateral agreements to the companies controlled by Latvian citizens. If such control is lost, the license is revoked.	17 Agreements, signed within the period 01.07.92-04.03.99 (see List, 4)
42. Only companies controlled by Latvian citizens can make fishing at the territory under USA jurisdiction	Fishery agreement with USA 08.04.93, art.1
43. Non-discrimination regarding double taxation is guaranteed to citizens only	6 Agreements, signed within the period 17.11.93-16.10.98 (see List, 5)
44. Establishment of joint-stock companies is not allowed to non-citizens who have resided less than 21 years in Latvia, Similar limitations	The Law "On Joint-Stock Companies", adopted on May 18, 1993, Art.10.1 (1), 17.4

exist for chairpersons of joint-stock companies, sworn auditors	
IV. Social Rights	
45. Years of employment outside Latvia are not included into the non-citizens' employment record when calculating pension rates	Law "On State Pensions", adopted on 02.11.95, transitional regulations, Art. 1
46. Only citizens have the right to receive different kinds of social aid on the territory of Finland. Years of employment on the territory of Finland are included into the citizens' employment record when calculating social insurance only.	Agreement with Finland on social benefits of 11.05.1999, Art. 4.1., 5.2., 16, etc.
V. Other Rights and Freedoms	
47. Only citizens have the right to study in certain higher education establishments	Statute (Constitution) of the Academy of Police, adopted by the Cabinet of Ministers on 17.06.1998, Art. 69 Statute (Constitution) of the National Academy of Defense, adopted by the Cabinet of Ministers on 30.06.1998, Art. 22
48. Latvian citizens may enter 53 foreign countries without visas. Non-citizens may enter, without visas, only 6 of them	The latest agreement with South Korea entered into force on 27.06.03, see: http://www.am.gov.lv/en/?id=574
49. The right on repatriation is enjoyed only by Latvian citizens as well as by persons whose ancestors are Latvians or Livs.	Repatriation Law, adopted on 21.10.95, Art. 2
50. Exemption from the customs duty during transit is provided, in some cases, to citizens only	2 Agreements, signed on 29.11.91 and 07.12.91 (see List, 6)
51. Only Latvian citizens and (in some cases) legal entities are guaranteed of legal assistance	9 Agreements, signed between 11.11.92 and 21.05.98 (see List, 7)
52. A citizen can be deprived of citizenship by court decision only. A non-citizen can be deprived of his status by decision of administrative authorities.	The Law "On the Status of the Former USSR Citizens Who Are Not Citizens of Latvia or Any Other State", adopted on 12.04.95, Art. 7
53. Non-citizens who have received compensations when leaving Latvia (i.e. as compensation for apartments left behind) from any state institutions or from abroad, apart from losing their former legal status, also lose the right to enter Latvia for residency	The Law "On the Status of the Former USSR Citizens Who Are Not Citizens of Latvia or Any Other State", adopted on 12.04.95, Art.1 (3) – according to the new Immigration Law, they may enter, if they pay back the compensation
54. Non-citizens can be acknowledged as politically repressed persons (by the Nazi regime), if they were repressed because of their national identity or who were minors and were confined in prisons and concentration camps in the territory of Latvia at that time.	The Law "On Determining the Status of Politically Repressed Persons who are Victims of Communist and Nazi Regimes", adopted on 12.04.95, Art.4, pp. 1-3
55. Only Latvian citizens are entitled to form collections of weapons	The Law "On the handling of weapons", adopted on 06.06.2002, Art. 34

(Source: The Latvian Greens European Free Alliance Party)²⁷⁹

²⁷⁹ http://www.pctvl.lv/?lang=en&mode=party&submode=background&page_id=235
(09.06.2008).