

For debate in the Standing Committee — see Rule 15 of the Rules of Procedure

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Rights of national minorities in Latvia

Report
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Adrian SEVERIN, Romania, Socialist Group

Summary

The demographic composition of Latvia and the ethnic and cultural make-up of its population, as well as a specific policy towards national minorities and inter-ethnic relations, mean that it has been a focus of attention at the Council of Europe since it joined in 1995. These specific features are compounded by a legal peculiarity, which has evident political consequences, since about 18.3% of the resident population do not have Latvian nationality and are “non-citizens”. These factors have also fuelled a domestic and international policy debate over the situation of minorities in Latvia for over a decade.

The issue of the rights of national minorities must be broached in its political, social and historical context. It is necessary to consider how the principles, values and standards upheld by the Council of Europe, which are designed as a universal model, should be applied in order to achieve the objective of encouraging balanced inter-ethnic co-existence, the integration of the various communities in society and the cohesion of society based on respect for diversity and a system of rights, obligations and responsibilities negotiated in a rational and constructive frame of mind by those directly concerned.

As a result, the report sets out a set of recommendations to address the challenges related, on the one hand, to the establishment of a cohesive society and a modern Latvian nation that is both civic and multicultural and, on the other hand, to the risk that the prevailing identity-related preoccupations in Latvia and the lack of integration of the Russian-speaking community in Latvian society will in the long-term, lead the Russian community towards social, cultural, political and economical marginalisation, not only within Latvia but also within Europe.

A. Draft resolution

1. Latvia has specific demographic features relating to the ethnic make-up of its population as well as a specific policy towards national minorities and inter-ethnic relations, with the result that it has been a focus of attention at the Council of Europe since it joined in 1995, but also in other international organisations. 59% of the 2.3 million inhabitants are Latvians and 41% from different ethnic minorities, Russians making up 28.5% of the whole population. Given this multi-ethnic and multi-cultural character of Latvian society, the establishment of a cohesive society and reliable civic nation raises enormous challenges.
2. This demographic situation is compounded by a legal peculiarity: about one-fifth of the resident population, or 418,440 people according to the figures as at 1 February 2006, possess neither Latvian nationality nor another nationality, even though they were Latvian residents and Soviet nationals when the country became independent. For reasons that are sometimes connected with the realities of their existence (not least the differences between their rights and the rights of Latvian citizens) but are sometimes psychological (understandably characteristic for former majorities that have become minorities), these stateless people feel discriminated against, relegated to the fringes of society and humiliated.
3. This special legal situation stems from the way in which the country regained its independence in 1991, in the context of the dissolution of the former Soviet Union. Technically, independence was the result of a referendum and parliamentary elections – held within the framework of the modernised Soviet legislation – during which a vast majority of Russian-speakers voted for independence and supported the opposition People's Front party. However, in substance, Latvia's return to independence was a political project, encouraged or welcomed by a number of international players, based on the principle of continuity between the old Latvian state that had existed before it became part of the Soviet Union and the current post-Soviet Latvian state, and not on the principle of the present Latvian state being one of the direct successors to the former Soviet Union.
4. In these circumstances, what remains to be done is to establish a modern Latvian nation that is both civic and multicultural. The specific nature of this task inevitably affects the equally specific way in which inter-ethnic relations, the status of minorities and intercultural integration are developing and perceived in Latvia. The Parliamentary Assembly considers that it should establish its requirements in respect of Latvia in the light of this specific situation, balancing the full respect for the common European standards with the need for achieving a coherent and cohesive society and Latvian state.
5. In the case of the succession of states, the citizenship issue is among the sensitive points which would constitute the framework for all problems related to the status of minorities. According to the Council of Europe's legal instruments, statelessness should be avoided and everyone who, at the time of state succession, had the nationality of the predecessor state, has the right to nationality. The Assembly is of the opinion that, regardless of the reasons for which one state was succeeded by another, the principle to be respected is that of free choice in respect of their new citizenship for the nationals of the predecessor state. The reasonable doubts about the loyalty of some citizens of the predecessor state towards the successor state could not be a ground for denying their right to the free choice of the citizenship (nationality) but eventually an argument for applying the lustration procedures, however always in compliance with the human rights of those concerned as stated in Resolution 1096 (1996) of the Parliamentary Assembly. Furthermore, when the state succession takes place in the context of a liberation process, only those who, as representatives of the predecessor state, violated the human rights of those who supported the self-determination which led to the formation of the successor state, may be exempted from the free choice of the citizenship (nationality).
6. The existence and co-existence of various ethnic, cultural and linguistic communities in a society in search of criteria for national cohesion, and the weight of the contemporary historical context, which dominates to a great extent the collective consciousness and public opinion, often transform the inter-ethnic relations and the status of minorities, despite efforts to foster inter-ethnic integration, into a source of mutual incomprehension and distrust among ethnic groups, to which all sides contribute. These factors have also fuelled-domestic and international policy debate over the situation of minorities in Latvia, and in the neighbouring Russian Federation, for over a decade. The Assembly itself addressed the issue on numerous occasions (e.g. in its Resolution 1236 (2001) on Honouring of obligations and commitments by Latvia).
7. The Assembly is seriously concerned about the risk that the prevailing identity-related preoccupations in Latvia and the lack of integration of different ethnic minorities in Latvian society, at a time when the sometimes very stringent mutual political requirements concerning inter-ethnic relations are, for strategic or geo-political reasons, receiving coverage and indeed support abroad, will in the long-term cause

the country's minorities, and in particular the Russian community, to become socially, culturally, politically and economically marginalised, not only within Latvia but also within Europe. Indeed, after Latvia's accession to the European Union, non-citizens, even those born in the country, enjoy in certain respects less rights than nationals of other EU member states living within the Latvian territory.

8. The issue of the rights of national minorities must be broached in its political, social and historical context, and it is necessary to consider how the principles, values and standards upheld by the Council of Europe, which are designed as a universal model, should apply in order to achieve the objective of encouraging balanced inter-ethnic co-existence, the integration of the various communities in society and, over and above that, the development of a country united by a common vision of the future. The Assembly considers that the ultimate objective of the policy towards minorities is the cohesion of society and the inter-ethnic co-existence based on respect for diversity and a system of rights, obligations and responsibilities negotiated in a rational and constructive frame of mind by those directly concerned.

9. The Assembly notes that Latvia has undertaken to comply with the Organisation's existing standards, principles and requirements as laid down, in particular, in the European Convention on Human Rights and the Court's case law, and the Framework Convention for the Protection of National Minorities. Ratification by Latvia of the Framework Convention in 2005 is a welcome development. It is for the supervision systems of these Conventions and for the European Court of Human Rights, whenever appropriate, to monitor their implementation and assess their application in Latvia, thus providing the only legitimate international guarantee, free of any partisan interest or biased political motivation, for minorities' protection.

10. The Council of Europe, along with other international organisations, has drawn up a set of general guidelines providing a framework for the rights of national minorities. The Assembly considers that member states' policies in this field should be in keeping with this overall framework. Compliance with the Council of Europe's general recommendations should therefore be assessed and achieved in the specific context of each state. It is therefore important that these recommendations should be translated into legal provisions by means of a constructive domestic policy and dialogue involving the various parties directly concerned. As long as the political will to comply with the recommendations exists, the Council of Europe's role must be to encourage the successful completion of this process and offer its expertise. In the case of Latvia, despite the delays and hesitations observed, it cannot be denied that the political will is progressing in the right direction. The Assembly hopes that those delays and hesitations will not hinder the expected further progress of that political will or slow it down.

11. The Assembly believes that genuine and constructive efforts must continue by all sides to resolve the statelessness issue as effectively as possible, by means of both a naturalisation policy and measures to back up this process, such as information and awareness campaigns. The Assembly welcomes the fact that the approach applied so far has reduced the percentage of stateless people from 29% to 18% in the space of ten years. In the present circumstances, individual naturalisations appears to be a lasting solution to the problem of statelessness. However, the Assembly notes that the percentage of non-citizens in the population is still rather high and it is concerned by the fact that the rate of naturalisation has recently fallen.

12. The Assembly considers that the naturalisation regulations adopted in Latvia do not raise insuperable obstacles to the acquisition of Latvian nationality and that the procedure applicable does not entail any requirements that are excessive or contrary to existing European standards. However, when it comes to the very specific situation of non-citizens, which is unprecedented and has therefore no special European norms or practices to which one could make direct reference, the Assembly considers that further improvements are possible so that unnecessary requirements for the acquisition of Latvian nationality are avoided. At the same time, the Assembly encourages people resident in Latvia who do not yet have Latvian citizenship, especially those who have been reluctant to apply for naturalisation, to do so as soon as possible.

13. In this context, the Assembly notes the concerns expressed by the OSCE international observers with regard to the parliamentary elections of 7 October 2006, that "the fact that a significant percentage of the adult population does not enjoy voting rights represents a continuing democratic deficit". Thus an important step towards greater inclusion of minorities would be granting to non-citizens the right to vote at least in local elections, as advocated by the Assembly.

14. In order to encourage national cohesion and foster stability of the state, the Assembly considers, in the light of existing standards, that the Latvian government authorities, the country's political leadership and Latvian civil society should devise means of integrating the members of the ethnic minority communities. This includes ensuring their participation in central and local policy-making.

15. In this context, the Assembly believes that an official road map formulated by the Latvian Government and agreed with the representatives of the minorities, fixing steps towards the full implementation of the best European practices in the field of minorities' rights and inter-ethnic integration, should be adopted. The speed of implementation of the measures included in such a road map should be accelerated following progress in the consolidation of the Latvian state and civic nation.

16. Issues of education and language are among the most delicate in the context of national minorities. Each country should devise an education policy that is receptive to the integration of the various communities and the promotion of linguistic diversity. That is the declared goal of the education reform under way in Latvia and the Assembly welcomes every progress made in that direction. However, among others, the concern of the minority communities that allege that the new policy results in deterioration of the quality of education, should be properly addressed by means of intensified and structured dialogue between the authorities and representatives of minorities. Targeted measures aimed at reconciling the objective need and the constitutional obligation of the command of the official language as an element of cohesion of the civic state, with bilingualism and with flexibility in terms of choice and percentage of subjects taught in the mother tongue, should be taken to ensure high quality of teaching and thus guarantee the competitiveness of young people belonging to minorities in today's globalised world.

17. The possibility for minorities to communicate with the authorities in their native language in places where they live in substantial numbers would, as witnessed by best European practices, give an immense boost to the integration of minorities and to the creation of the climate of dialogue and mutual understanding. The Latvian authorities might consider making appropriate amendments to existing legislation in this respect. Such amendments should be carried out with the aim to promote confidence between minorities and the majority, in a way which should not threaten the status of the Latvian language which is already well established in Latvia as an element of identity and as a general means of communication of the civic and not of an ethnic state.

18. The Parliamentary Assembly therefore invites the Latvian authorities to:

18.1. ratify, as soon as possible, Protocol No. 12 to the European Convention on Human Rights, which lays down a general prohibition on discrimination (CETS No. 177);

18.2. sign and ratify the European Charter for Regional or Minority Languages (CETS No. 148);

18.3. implement the Framework Convention for the Protection of National Minorities (CETS No. 157) in good faith and to consider withdrawing the two declarations recorded in the instrument of ratification, concerning Articles 10.2 and 11 of the Framework Convention, in line with Assembly Recommendation 1766 (2006) on the ratification of the Framework Convention for the Protection of National Minorities by the member states of the Council of Europe;

18.4. elaborate and adopt, with the co-operation of the Venice Commission, legislation which will guarantee the prohibition of any discrimination on ethnic grounds and lead to a real equality between all ethno-cultural communities living in Latvia, be they majority or minorities, while excluding the equality of any of those communities with the state;

18.5. consider all possibilities and explore all appropriate ways leading to the implementation of the pertinent recommendations made by the Assembly, the Council of Europe Commissioner for Human Rights, as well as by relevant OSCE and United Nations bodies, in order to grant voting rights at local elections to all permanent residents;

18.6. consolidate relations among ethnic communities and intercultural dialogue on the basis of the principle of effective participation as enshrined in Article 15 of the Framework Convention and, towards this end, reconstitute the Minority Consultative Council attached to the President of Latvia in order to carry out constructive co-operation with NGOs and representative associations;

18.7. continue their awareness campaign in order to further the policy for the acquisition of Latvian nationality by naturalisation, particularly among the workforce and young people;

18.8. consider automatically naturalising people who are elderly, as well as those born in Latvia or having made a worthwhile contribution to the establishment of the newly independent Latvian state;

18.9. avoid requirements that can undermine the ethnic and cultural dignity of those applying for naturalisation in that they ask them to express convictions that are contrary to their reading of the history of their cultural community or nation;

18.10. consider making the conditions attached to the existing naturalisation procedures more flexible in order to increase the rate of naturalisation and to speed up the process;

18.11. devise and introduce means of encouraging and guaranteeing the civic integration of ethnic communities, including their integration in the political process and the public service, and *inter alia* to:

18.11.1. amend legislation so as to make it possible to use the minority language in relations between national minorities and the administrative authorities in areas where they live in substantial numbers;

18.11.2. review the existing differences in rights between citizens and non-citizens with a view to abolishing those that are not justified or strictly necessary, at least by providing non-citizens with the same rights as are enjoyed by nationals of other EU member states within the Latvian territory;

18.12. continue their efforts to implement their policy as regards education, the fostering of respect for diversity and the promotion of linguistic diversity, in a spirit of openness; to implement education legislation and consider amending it, whenever necessary, in accordance with the provisions and spirit of the Framework Convention for the Protection of National Minorities and with due regard for relevant Council of Europe recommendations, in particular to ensure adequate training of teachers able to teach subjects in minority languages.

19. The Assembly also asks the various Latvian political players to refrain from making speeches based on intolerance, racism or hatred and from exploiting inter-community tensions for purely political purposes. It recalls Resolution 1495 (2006) on Combating the resurgence of the Nazi ideology and Resolution 1481 (2006) on the Need for international condemnation of crimes of totalitarian communist regimes and hopes that the Latvian authorities will continue to adopt a strict stance with regard to attempts to justify crimes committed in Latvia by Nazi troops and the totalitarian Communist regime.

20. The Assembly calls upon the European Union to ensure that the status of the minorities and the progress of inter-ethnic integration are ensured at the highest level in all its member states. One concrete step in this direction would be to grant Latvian non-citizens the same rights as are enjoyed by EU citizens across the Union.

21. Lastly, the Assembly, in the light of the history of Russo-Latvian relations and the importance for Latvia, at present and in the future, of a nearby market and culture as important as those of the Russian Federation, in respect of which the Russian minority can serve as a bridge, considers that progress towards social reconciliation and inter-ethnic integration in Latvia could be greatly facilitated by relaunching bilateral political dialogue between Latvia and the Russian Federation. The Assembly proposes that high-level contacts be established between the Latvian and Russian governments, as part of a neighbourly relations policy, which has yet to be established in the region.

B. Draft recommendation

1. The Parliamentary Assembly draws the Committee of Ministers' attention to its Resolution ... (2006) on rights of national minorities in Latvia. It requests the Committee of Ministers to:

- 1.1. support the process of integration of national minorities in Latvia and encourage the steady and quickest possible reduction of the number of non-citizens;
- 1.2. encourage the implementation in Latvia of recommendations made by the Assembly, the Council of Europe Commissioner for Human Rights and by relevant bodies of other international organisations;
- 1.3. encourage the Latvian authorities to take into account, in the preparations of future elections, the conclusions of the OSCE Election Observation Mission with regard to the elections held on 7 October 2006;
- 1.4. offer to the Latvian authorities any assistance and expertise that might be needed in order to implement Resolution... (2006) as well as to consolidate a civic and multicultural Latvian society and state;
- 1.5. transmit Resolution ... (2006) to the Advisory Committee on the Framework Convention for the Protection of National Minorities and to the Council of Europe Commissioner for Human Rights;
- 1.6. ask the competent intergovernmental committee to consider the possibility of issuing guidelines to be observed with regard to the rights of people belonging to ethnic or cultural minorities in the event of state secession, a state's reconstitution or the emergence of a new state;
- 1.7. encourage those member states that have not yet done so to sign and ratify the Council of Europe Convention on the avoidance of statelessness in relation to state succession (CETS No. 200);
- 1.8. observe and implement the principles, standards and requirements stated in the Resolution (2006) whenever appropriate, in such a way as, while taking into consideration each country's particularities, to assure the same political approach, the same level of minorities' protection and the same level of inter-ethnic integration in all Council of Europe's member states.

B. Explanatory memorandum, by Mr Adrian Severin, Rapporteur**Contents**

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Appendices

Appendix I: Programme of the fact-finding visit to Latvia of Mr Adrian Severin, Rapporteur (20-21 March 2006)

Appendix II: Programme of the fact-finding visit to Moscow of Mr Adrian Severin, Rapporteur (23-24 May 2006)

Appendix III: AS/Jur (2006) 25, 2 June 2006, Comments by Mr Boriss Cilevics, Member of the Latvian Delegation on the Information memorandum submitted by Mr Adrian Severin, Rapporteur (Document AS/Jur (2006) 14)

Appendix IV: AS/Jur (2006) 26, 29 September 2006, Comments by the Parliamentary Delegation of Latvia concerning the Information Memorandum submitted by Mr Adrian Severin, Rapporteur (document AS/Jur (2006) 14)

Appendix V: Dissenting opinion presented by Mrs Circene and Mr Bērzinš, with which Mr Dobelis, Mr Kastēns et Mrs Rugāte (members of the delegation of Latvia) have associated themselves¹

I. Introduction

1. On 25 April 2005 two motions for resolutions were referred for report to the Committee on Legal Affairs and Human Rights.
2. In the first, on *Municipal elections in Latvia on 12 March 2005*², Mr McNamara and others considered that Latvia had not complied with the recommendations of international organisations and that the results of the municipal elections of 12 March 2005 required further examination by the Assembly in order to ascertain whether or not they genuinely reflected the political preferences of residents, particularly of the country's major cities.
3. The other, presented by Mr Elo and others, was on *Educational reform and problems with the observance of the national minorities' rights in Latvia*³, and considered that the situation regarding national minorities' rights, particularly the right to education, gave cause for concern. The signatories believed the Assembly should examine the current situation thoroughly in order to evaluate the problems objectively on the basis of the relevant pan-European standards and principles and draft recommendations on how they could be overcome.
4. These two motions for resolutions were clearly connected with the post-monitoring dialogue the Assembly had been then conducting with Latvia since the end of the obligations and commitments follow-up in 2001. In the meantime, at its meeting on 13 April 2006, the Bureau of the Assembly decided to recommend closing the post-monitoring dialogue. This decision was endorsed by the Assembly on 26 June

¹ In accordance with Rule 49.4 of the Rules of Procedure of the Assembly.

² Doc 10481.

³ Doc 10482.

2006. Moreover, in addition to the Assembly's work, the situation of national minorities in Latvia has in recent years received special attention from other Council of Europe bodies and other international organisations.

5. On 23 May 2005, the Committee on Legal Affairs and Human Rights appointed me rapporteur. I do not intend in this capacity to comment on the work of other Assembly rapporteurs or other Council of Europe bodies on these issues.

6. This report is designed to provide the Committee and the Assembly with basic information and my personal assessments regarding the situation of the national minorities in Latvia. It is essentially based on the information gathered during my visit to Latvia on 21 and 22 March 2006 (see appended programme in Appendix I) as well as during my visit in the Russian Federation on 23 and 24 May 2006 (see appended programme in Appendix II). I have also used the information existing in the data base of the Council of Europe as well as of other international governmental and non governmental organisations. After the presentation of the first introductory memorandum at the Committee's meeting on 18 May 2006, I received a very informative letter from Mr Čilevičs, member of the Latvian delegation. That letter, whose factual elements have been fully integrated into the present report, was clear evidence of the impatient and legalistic way in which most of the members of the national minorities in Latvia approach the issue of their rights, basically refusing any contextualisation, prioritisation or gradual development. I asked the Latvian authorities to confirm the information received from other sources and also to react to Mr Čilevičs letter. Thus all the data included in this report has been double-checked.

7. From the outset I feel it is important to stress that neither my report nor the draft resolution based on it are legal decisions by a tribunal. Even if the task of preparing the report has been given to the Legal Affairs Committee, this Committee is not a court operating on the bases of a legal syllogism which puts in a direct formal relation the norms, the facts and the sanction. Therefore, while of course placing the data collected about inter-ethnic relations in Latvia into the framework of European standards, norms and requirements, our efforts should be directed towards finding solutions rather than formulating accusations or condemnations. Our mission is not to make justice but to make justice possible; not to impose a solution which we perceive to be fair but to offer a fair perspective to the minorities as far as both their rights and their capacity to be integrated in a happy coexistence with the majority are concerned; not to impose a dogma against the realities on the spot, but to create the context for overcoming the interethnic controversies, the democratic deficits and the human rights shortcomings.

8. I must also correct from the very beginning the inaccurate allegation and the wrong conviction that there exists a European *aquis* made up of legally binding rules directly applicable concerning the rights of national minorities. In fact, in the absence of a Protocol on cultural rights to the European Convention on Human Rights, the European Court could only identify in an indirect way norms which could be applied in order to guarantee the rights of persons belonging to national minorities. As for the Framework Convention for the Protection of National Minorities, it established only a compulsory framework within which the signatories are free to adopt national legislation concerning the minorities. This legislation will and should always follow the specificity of each country and society. The various recommendations and Resolutions of the Parliamentary Assembly of the Council of Europe, as well as the Copenhagen document adopted under the aegis of the European Union are only sources of a political obligation which might give birth to a political responsibility. Therefore when one speaks about the European standards (and this is also the case of the present report) one does so in a very broad sense. Finally, I must stress that even when the national legislation matches the standards, that is not enough. The general national mood reflected by certain mentalities, perceptions, prejudgements, fears and hopes could very much influence the way in which legislation is read, understood, interpreted and enhanced. More detailed and concrete considerations on these aspects will be made in this report when the issue is discussed.

II. Distinctive features of the situation in Latvia

i. Demographic aspects

9. Latvia has 2.3 million inhabitants, a third of whom are concentrated in the capital, Riga. The country has distinctive features, firstly, as regards ethnic composition and, secondly, because one-fifth of the resident population (18.3% to be precise, i.e. 418,440 inhabitants in 2006) do not have Latvian nationality and are "non-citizens".

10. The composition of the population underwent major changes before and during the soviet era as a result of the disappearance of a proportion of the native population (mass deportations to Siberia, the Nazi invasion and the deportation of the Jewish and Roma communities, and a mass exodus at the end of the Second World War) and the arrival of hundreds of thousands of Russian or Russian-speaking immigrants

during the fifty years of Soviet rule. The Latvian authorities estimate that there were 1.5 million immigrants in Latvia at that time, half of whom settled there.

11. According to the first census conducted in the Russian empire (1897), ethnic Latvians constituted 68% of the population within the territory on the modern Latvia. In the beginning of the 20th century, the Lifland and Kurland "gubernijas" (territorial administrative units) had become the fastest economically developing territories of Tzarist Russia, and the population grew from 1.9 million in 1897 to 2.55 million in 1914, due both to the high birth-rate and immigration from other parts of the empire. On the eve of World War One, the proportion of ethnic Latvians in the population was estimated at slightly over 60%. Ethnic Latvians were predominant in the countryside, while persons belonging to the main minorities (Russian, German and Jewish) constituted a very substantial proportion of the urban population. During World War One, most of the urban industry, with its predominantly non-ethnic Latvian workers, was evacuated to inner parts of the Russian empire, and many of them did not return. After the end of World War One, the population of Latvia was only 1.6 million. According to the first census of the Republic of Latvia (1920), the proportion of ethnic Latvians reached 73%. After the *coup d'Etat* in 1934, minority rights envisaged by the most democratic earlier Latvian legislation had been severely curtailed. In particular, a campaign to change ethnicity records of the persons belonging to minorities to Latvian allegedly started. In 1935, 77% of the 1.9 million inhabitants were Latvian (apparently this was the highest ever proportion of ethnic Latvians), 8.8% Russian, 5% Polish and 3% German. In 2006, of the 2.3 million inhabitants, 59% are Latvian, 28.5% Russian, 3.8% Belarussian, 2.5% Ukrainian, 2.4% Polish, etc (Russian-speakers therefore account for a total of 36% of the population). In 1989, only 52% of the population were Latvian; 30% were Russian. Soviet statistics of the period give a figure of 34%, however⁴. Russians form the second largest ethnic group after the Latvians themselves.

12. The dynamic of the ethnic structure of the Latvian state along the years confirms two phenomena which were encountered almost everywhere else in Europe:

- whenever a state is politically dominated by a certain ethnic majority, whatever the measures for the protection of the minorities' identity rights are, the demographic proportion between the majority and the minorities changes in favour of the former which becomes, slowly but steadily, ever more demographically dominant;

- whenever a state is politically dominated by a certain ethnic group, even if this group is ethnically minoritarian, it becomes, slowly but steadily, demographically dominant within the social elite of the respective state. Therefore a change in the ethnic composition of a state's political leadership does not automatically mean the replacement of the dominant influence of the former ethnically and politically dominant group at the level of the society as a whole. Such a replacement usually takes a certain time, during which the new political elite is confronted with the resistance of an old cultural elite having a different ethnic origin. It is in this light that one should understand the efforts of the current Latvian political leadership to use the political instrument of the resurrected independent Latvian state in order to build a coherent Latvian society consistent with it, leaving behind the social and cultural Soviet past.

13. The issue of the demographic composition of Latvia is coupled with a very specific legal problem having clear demographic and political consequences: more than 418,000 people, 66.5% (278,000) of them Russian, do not at present have Latvian citizenship (in total, Russian-speakers constitute 93% of non-citizens). In 1995 there were 735,000 non-citizens in the country.

14. If these figures are added to the figures representing the minorities whose members are Latvian citizens the proportion between the Latvian ethnic community forming the majority and the ethnic minorities' community (especially the Russian and Russian speaking ones) becomes dramatically tight. Based on such a fragile inter-ethnic equilibrium it is virtually impossible to build an ethnic state (at least a mono-national one). Under such circumstances the normal option is between a multi-national state (i.e. a state politically led by two or more ethnic communities which impose their agenda of priorities over the other ethno-cultural communities) or a civic state (i.e. a lay state founded on the principles of equal individual rights, within which all ethno-cultural communities enjoy an equal capacity to preserve and express their cultural identity in a multicultural environment characterised by democratic pluralism and the respect for the diversity). In the

⁴ This was the highest percentage of Russians in a Soviet Republic, apart from Kazakhstan, and can be compared with 30% Russian in Estonia in 1989, 9.4% in Lithuania, and 13% in Belarus. It is also interesting to note that, according to the same soviet statistics, only Ukraine and the three Baltic States recorded a positive migratory balance throughout the period 1961 to 1989 and received a constant flow of Russian immigrants (unlike all the other soviet republics); by 1989 the Russian population of Latvia had risen to 906,000.

modern world dominated by universal interdependence and the emergence of global subsidiarity and of the cosmopolite nation, the only option to be recommended is the civic and multicultural state.

15. When approaching the issue of minorities and of inter-ethnic relations in Latvia one must make the distinction between various minority groups, taking into account their different historic backgrounds. From this point of view the following three main categories can be identified:

- the standard national minorities – each one relatively small and who have never played in the past or, at least during modern times (history), a politically dominant role in the country;
- the dominant national minorities⁵ – in fact the Russian minority is relatively large and, even though settled in Latvia before what it is today called the Soviet occupation, is perceived as an heir of that Russian power (Tsarist or Soviet) which challenged the national Latvian aspirations, tried to stop the formation of the Latvian nation state and to this end oppressed the Latvian people;
- the non-citizens – mainly, but not only Russians - whose presence in Latvia is considered to be the consequence of the Soviet occupation and who, consequently, are not entitled to be automatically considered an integral and equal part of the Latvian society since, in principle, they should have had to leave the country following the withdrawal of the "occupant's" armies and administration. The naturalisation of the non-citizens leads, according to the particular case, to their transfer from the third category to one of the first two. These distinctions and categorisations express society's collective perceptions of history (be it right or wrong, one might see here an application of the ancient legal principle "*error communis facit jus*") and are completely unrelated to the merits or the sins of the individuals concerned who otherwise must be equally treated and who are fully entitled to the recognition of their human rights in accordance with the European standards. How could one reconcile the collective historical perceptions – and the sometimes unrealistic hopes and unjustified fears generated by them – with the European standards concerning the rights of the individuals belonging to the ethno-cultural communities? This is the question to which the Council of Europe should find a pragmatic and fair answer if it wants to defend its values in an effective way. Such an answer must combine strategic fixity with tactical flexibility.

16. As a matter of principle one should say from the outset that the best way to foster the loyalty of the national minorities (especially the "dominant minorities") towards their state of residence is by associating them fully in the management of that state, thus integrating them in the civic nation. To this end granting citizenship and guaranteeing equal opportunities to the members of the minorities might be the prerequisite of their loyalty towards the state and not the other way around. One can hardly expect someone to become loyal before getting the citizenship of a suspicious and hostile state. Loyalty is bilateral.

ii. *The problem of non-citizens*

17. The status of the non-citizens – because it is a status – is a result of the way in which Latvia's return to independence in 1991 took place. This was based on the restoration of the Latvian State of 1940. Consequently it was decided that Latvian citizenship would be conferred as of right only on those who had been citizens in 1940 and their descendants.

18. Legally, the non-citizens are not stateless persons in the traditional meaning of the term. They have a status laid down in an Act: the Law on the Status of the Former USSR Citizens who are Citizens of neither Latvia nor another State (1995). Therefore they are not subject to the Law on Stateless Persons. However, the concept of "non citizenship" has a meaning only from an internal Latvian historical perspective. International law does not envisage any other categories besides citizens, foreigners and *stateless persons*. Consequently, from the point of view of international law, non-citizens can only be regarded as stateless

⁵ Some experts also use for "dominant national minorities" the term "imperial minorities". "Imperial minorities" are those national minorities formed by the heirs of a former national majority who exercised political domination in a certain region which afterwards became a sovereign state ruled by or identified with a different national majority. The objective historical status of "imperial minorities" generates – rightly or wrongly - the following subjective reactions: a) the other ethno-cultural communities living in the new state see in the "imperial minority" a reminder of their past sufferings; b) the new state's authorities – often in consensus with the new ethnic majority – perceive the "imperial minority" as a secret weapon used by the former ruler for the restoration of its lost dominance and therefore as a group of disloyal citizens; c) the "imperial minority" itself perceives the natural change of its role within the new society as an unfair and unnecessary downgrading and humiliation (particularly when from a civilisation point of view it is superior to the new majority), feeling like second-class citizens; d) the former (imperial) majority in relation to which the "imperial minority" is a cultural relative (cultural compatriots), see in that minority either the scope of a moral obligation concerning its cultural protection or the means for promoting a hidden geo-political agenda. Nobody can afford to ignore such psycho-political dimensions when dealing with the rights of these minorities.

persons. This explains why Latvia's non-citizens are defined as stateless in a number of documents of the EU or other international organisations.

19. With some significant exceptions, one might say that the non-citizens have the same rights and fundamental freedoms as citizens; they may not, however, be civil servants or belong to certain regulated professions; they have a "non-citizen's" passport issued by Latvia, which gives them the consular protection of Latvia when they are abroad. On the other hand, this situation has had an impact on freedom of movement since Latvia joined the European Union: non-citizens wishing to go abroad need a visa.

20. A list of the main differences between the citizens' and non-citizens' rights based on the information available has been drawn up by the Latvian Human Rights Committee.

21. From the point of view of the Latvian authorities and political elite the non-citizen status should be regarded as superior to the stateless status since the former opens the way for an allegedly special and almost automatic (under certain conditions) procedure of naturalisation. At the same time it includes, as mentioned above, the right to a certain consular protection to which stateless persons are not normally entitled. This was seen as a better alternative to the forced mass transfer (applied in other cases) in Russia (their motherland or country of origin) of those who settled in Latvia as a result and within the context of the latter's annexation to the USSR (a fact regarded by the majority of Latvians as an act of occupation), as well as of their descendents.

22. For most of the non-citizens themselves such a status is perceived as inferior and therefore offensive and degrading. The non-citizens, unlike stateless persons, are former citizens who were deprived of their citizenship against their will, without their consultation and through no fault of their own. They feel like victims of a collective presumption of guilt or of lack of loyalty. Among the Latvian residents they feel like some kind of second-class subjects, condemned to a virtual civil death.

23. Obviously these two completely opposite views are hard to reconcile. They also reflect a different perception of the Soviet past: most Latvians see it as an occupation similar to a colonisation, now followed by a decolonisation which must include the repatriation or the withdrawal of the colonists; most Russians (citizens and non-citizens) see it as a time of common historical destiny, of joint management, of common projects based on real solidarity of interests and common hardships. The political arrangements negotiated with the former Soviet authorities for the self-determination and secession of Latvia did not pay any attention to these controversies and did not provide any solution for overcoming them. Since there are no legal means for solving them retroactively, one should address the issue of non-citizenship on the basis of human rights principles, while paying due attention to the need to preserve the coherence, cohesion and security of the Latvian state.

24. In this context one should also note that, from a legal point of view, citizenship is a legal relationship between an individual and a state based on the free agreement of the two who are thus entering into a covenant (contract) which gives effect to rights, obligations and responsibilities for each side. It is difficult if not impossible, when observing the principle of the freedom of will and of agreement, to oblige one person (a state or an individual) to conclude a "citizenship contract" (as well as any other contract). Strictly legalistically speaking the succession of citizenship should follow the succession of states. In this particular case, both Russia and Latvia are, from the point of view of international law, to a certain extent (at least regarding the enhancement of human rights), successors of the USSR – Russia being the general successor and holding the right of continuity. Therefore both states are responsible for finding a solution for the non-citizens who are former Soviet citizens and their descendents residing in Latvia.

25. As a matter of principle one should agree that in case of secession (and even of decolonisation) all residents of an emerging state, except those who in the exercise of the precedent ruler's powers committed human rights violations, must have the right to choose between leaving that state or taking its nationality. In the latter case the nationality (citizenship) must be given, possibly under certain conditions (like mastering the official language within a certain lapse of time, etc.). Since it is too late for Latvia to apply these principles one should now try to facilitate and accelerate naturalisation within the existing legal framework. The laws must be interpreted in the most flexible and favourable way and with the highest respect for generally recognised human rights. If necessary, the pertinent legal provisions should be amended (for instance, in order to grant naturalisation automatically to old people).

26. It should be noted that there is not necessarily a correlation between the quality of "non-citizen" and integration into Latvian society. For example, 30% of the members of the Jewish community are non-citizens, but the community does not complain of not being integrated into Latvian society and it does not see in that status a major obstacle to such integration. On the other hand the Jewish community expresses concerns

about anti-Semitic demonstrations (acts of vandalism or on issues such as the Latvian SS legion or the 16th of March celebrations ("The Legionnaires' Day")). This proves that the problem of non-citizen status has a very important psychological dimension and looks different if approached from different historical backgrounds and with different ethnic perceptions. For some communities it is more dramatic than for others.

27. The naturalisation process began on 1 February 1995. Initially naturalisation was available for only some selected categories of non-citizens (so called "system of windows" – or quasi-quotas). Elimination of these restrictions was approved by referendum in October 1998, and only since then has naturalisation become an option for the majority of the non-citizens. Between 1 February 1995 and 1 February 2006, there were 113,640 applications for naturalisation, 106,324 of which were granted, to which should be added 4,748 children born to non-citizen parents after 1991, whose Latvian citizenship was recognised. Almost 80% of applications are made by the under-50s.

28. Applications for naturalisation peaked in 2004 (21,297 applications) and 2005 (19,790 applications), certainly linked with the country's joining the European Union. Ninety-nine percent of those who sit the written examination obtain naturalisation. Since then, the naturalisation rate has fallen. Naturalisation efforts and campaigns on the whole target young people and the under-40s in general, ie those of working age who, in the context of EU membership and economic growth, clearly see the advantages of Latvian citizenship.

29. Ms Aldermane, Director of the Naturalisation Board, told me in detail of all the training, information and awareness-raising measures taken to promote naturalisation. Four groups have been identified:

- retired people with no knowledge of Latvian, most of whom do not apply for naturalisation⁶;
- young people – between 110,000 to 120,000 people – who already receive education in Latvian and are the priority target of awareness campaigns;
- people who do not want to acquire Latvian nationality on principle or have to apply for it;
- the small number of people who plan to leave Latvia and settle in another country, for whom acquiring nationality is of no interest.

30. However, in the view of the Russian-speaking political parties and allegedly of the majority of both Russian-speaking citizens and non-citizens of Latvia, the situation is far from satisfactory: in ten years, barely one-sixth of non-citizens have obtained Latvian citizenship. The representatives of some of these parties believe non-citizens are discriminated against; they do not understand why these people, most of whom were born and educated and work in Latvia and pay taxes there, should have to sit an examination in order to acquire Latvian citizenship. Latvia is their home country. The examination is not an obstacle in itself since the papers are not difficult, nor is the payment of a fee (in fact a low amount) an obstacle. But there is a psychological block, since the people concerned see it as a matter of principle.

31. The integration policy⁷ the Latvian government has been pursuing for the past years is now reaching its limits, coming up against the hard core of some 350,000 people who do not speak Latvian and refuse to take the naturalisation examination. What is the solution? This question has led to a veritable dialogue of the deaf: on the one hand, the government believes it has made enormous efforts and implemented all the recommendations made with a view to making the naturalisation procedure more flexible: on the other, the vast majority of the non-citizen Russian-speaking community believe that the fact that they are long-term residents should in itself be enough for automatic naturalisation. While it may be understandable that retired people and the elderly take this attitude, it is less justifiable for younger people to do so.

32. Some of the NGOs representing these communities told me that the government ought to do still more to facilitate naturalisation. Others consider that most non-citizens have chosen to remain in that situation and that the naturalisation examination is clearly not an obstacle. In the opinion of quite an important number of NGOs, including some of those representing the Russian-speaking community (which in return were accused by some other representatives of the Russian community as being "puppet NGOs paid

⁶ The Act provides for a simplified procedure for the over-60s with no written examination. This system could, however, be simplified even further.

⁷ The "integration" concept was officially introduced in the public speech in 1999 and it expresses a progress in the approach on the minorities' policies. Before that the official discourse in respect of the non-citizens of Russian origin was rather one developed in the light of the concept of "de-colonisation". Therefore the Citizenship Law itself was adopted after lengthy delays and under the pressure of the Council of Europe which made of it an explicit condition for Latvia's accession in that organisation. That delay was a reason why Latvia joined the Council of Europe almost two years later than its neighbours Estonia and Lithuania.

by the government”), young people are typically not interested in learning Latvian and make no effort even to acquire the rudiments, but at the same time hope for automatic naturalisation in the medium term. However, in spite of such opinions, according to the surveys, the knowledge of Latvian among young Russian-speakers apparently has dramatically improved, more than 90% of the parents considering that knowledge of the Latvian language is important for their children who are encouraged to learn it. This proves that, if there is a sort of “linguistic resistance” it is not an aggressive but a passive and silent one. On the other hand, normally, for those youngsters studying at various levels of schools and universities it is impossible to graduate without passing exams in Latvian or without a good command of it. Therefore only those who are not studying in public schools or do not envisage finding jobs in the civil service can afford to refuse to learn Latvian.

33. Finally, contrary to the alarmist figures some extremist political parties from all sides are pleased to put forward for different reasons, it is interesting to note the very small number of those returning to the Russian Federation. According to the Russian embassy in Riga, 325 people, most of them retired, left Latvia in order to settle in Russia in 2005. In its turn, the Latvian Integration Ministry has set up a financial aid programme for “return” (a kind of a re-emigration) that assisted about a hundred families in 2005.

III. Analysis of the present situation

34. The question of the rights of national minorities in Latvia should be approached in its political and historical context. How are the principles and values developed by the Council of Europe and applicable in all countries to be applied in a specific political, social, cultural and historical context? As rapporteur, I want to present a concise and coherent view of the situation.

35. Latvia is a young country that needs stability and security if it is to consolidate and develop. Security as a basis of stability has an important psychological and psycho-sociological dimension that is also affected by interethnic trust or distrust. When the criteria for civic trust (or cohesion) are debatable or even uncertain, the easiest refuge is ethnicity. When people do not know why they should be loyal to state institutions, the most appropriate response is that the state is the institutionalised organisation of the ethnic nation. When ethnic minorities do not feel they are adequately protected by the state of their citizenship (seen as belonging to another cultural nation), they seek refuge within their ethnic group, or in a foreign state that is seen as that of their ethnic origin. In the absence of anything else, the ethnic grouping provides the feeling of the minimum acceptable security. Such mutual and mutually fuelled interethnic distrust is inevitable, especially in the context of post-imperial relationships between a newly dominant national majority and a national minority that was previously dominant. It can only be surmounted over time with much patience and wisdom. There is a great need in such a context for mutual trust policies and a strategy of shared projects.

36. At the same time, Latvia needs to define its relationship with Russia, its great political, economic and cultural neighbour. This proximity is both attractive and repulsive. The attraction lies in the opportunity of access to a major culture and a huge market; the repulsion in a small country's fear of a major power and the enduring resentments of a formerly occupied country for its former occupier. For the same reason, the relationship between the Russian-speaking minorities of Latvia and Russia is regarded with distrust in Riga.

37. Latvia has two particular features: as we have seen, the first is the existence of different ethnic and cultural communities with a firm social, political and cultural foothold; the second is a highly charged historical context.

38. The various perceptions and interpretations of different ethno-cultural communities over their own past are a part of their identity and a possible source of inter-ethnic controversies (e.g. the dispute over the occupation versus civilizing integration). The general experience in the field of the minorities' rights shows that when it is about inter-ethnic controversies everybody is right because everybody is emotional and irrational. Therefore one should transfer the dialogue from the irrational cultural frame into the more rational social and economic one, promoting common economic and social projects based on the solidarity of interests. On the other hand, along the years we have learnt that the usual reaction to the invitation to change the topic of the talks and to approach pragmatic projects is that the context is never right. When the context is right it is too late. Latvia and its minorities should be warned and encouraged to avoid such a syndrome.

39. The question is whether or not Latvia complies with existing standards on or the necessary requirements regarding the protection of minority rights. These standards are well-known. First and foremost among them is the Framework Convention for the Protection of National Minorities. As Latvia has been a party to the Framework Convention since June 2005, its first report on how it is complying with its obligations under the Convention had to be submitted to the Advisory Committee by 1 October 2006.

40. The fact that Latvia has signed and ratified the Framework Convention with a number of very important reservations is regrettable. However, one could not deny that to formulate reservations when joining international conventions is a sovereign right of every state. Therefore Latvia could not be blamed as long as its reservations are allowed by the said Convention. It would be wiser to investigate and try to understand why Latvia, like many other states, has reservations (while some states have not even signed or ratified the Framework Convention). Apparently the reason lies in the fear that this legal instrument does not assure the equilibrium between the rights and the obligations of the minorities, between the respect for diversity and social inclusion, between the protection of cultural diversity and the cohesion of the civic nations (i.e. the civic state).

41. The Council of Europe has standards, or rather programme-type provisions, that, intended as a universal model, have to be assessed in the historical, economic and social context in which they are to be applied and to which they have to be adapted. That also explains why the Convention for the Protection of National Minorities is a Framework Convention. This Convention offers a menu of rules, requirements and guidelines which can be enhanced in a flexible way. Those standards are indeed minimal but they fix a target which is to be reached through a progressive process. The states may grant more rights than those mentioned by the Convention, not less. However, the gradualism, the timetable, the modalities etc. of the enhancement may be defined by the states concerned when transforming the framework provisions into directly enforceable norms adapted to a specific context. Of course, this should be done in good faith. If it is not always possible to give immediate satisfaction to the legitimate requests of the persons belonging to the national minorities one must at least give them a clear and firm dignifying perspective regarding their identity status in a given country.

42. The way the minorities' rights are applied is important, but so is the convergence of various groups and communities towards integration. In this respect, the question has three aspects:

- rights: are the members of the communities satisfied with the rights they have? Do they feel protected?
- equality: does the distribution of rights lead to a genuine equality between persons?
- integration: the ultimate objective of these rights is to foster better interethnic coexistence and the integration of the various groups into society. Is it the case?

i. The emergence of the Latvian nation and the choice of an integration policy

43. The independence and sovereignty of Latvia as a modern nation-state were achieved in the context of the collapse of the former Tsarist Empire on the basis of the principle of the self-determination of peoples and the principle of nationalities. They were reaffirmed by the fall of the Soviet Union but, this time, on the basis of an historical right to the existence of the Latvian state considered interrupted by the occupation in 1940, the right of peoples to self-determination and the principle of the invalidity of acts imposed by force, combined with the principles "*quod nullum est nullum productit effectum*" and "*restitutio in integrum*". This procedure did not take into account the ethnic changes that had taken place in the meantime. While one can accept that many non-Latvians are in the country as a result of an occupation, those people cannot be held personally responsible for that occupation and, as a matter of principle, have the right to be treated in a way that complies with European standards on national minorities.

44. Unfortunately, the conflictual regional and international context in which the resurrection of the Latvian state occurred made immediate integration of all the Russian-speakers living in the country at independence date a source of, perhaps unfounded, local anxiety and something that might be exploited for geopolitical ends. This context certainly influenced the policy on national minorities and explains the delay in, and some of the particular features of, the application of European requirements (standards). The also shows the importance of good relations between Latvia and the Russian Federation in order to deal with minorities in line with European standards. In the final analysis, the gravity of this situation lies essentially in the very worrying fact that political parties in Latvia are for the most part ethnicity-based or oriented. This is a particular source of nationalist confrontation and is such as to delay the interethnic reconciliation and integration process.

45. In the circumstances described above, Latvia had to choose to build itself as a civic nation. It regards itself as a modern, democratic state that looks to the future. However, the integration of the Russian-speaking minority, the "imperial minority" perceived as the residual heir of the former soviet empire, is still encountering psychological and psycho-political obstacles. The mere presence of the Russian minority,

probably wrongly regarded as a legacy of the former occupation and therefore as the rearguard of the former empire, and the discontents that community expresses in an imperative, not to say “imperial” tone, sometimes exaggerating the problems it faces, inevitably generate in reaction an ethnic undertone to civil society and ethnic agendas in civic discourse⁸. If these obstacles are to be overcome, ambitious educational programmes need to be devised for Latvians and for the other ethno-cultural communities. A change in attitude cannot be imposed – it has to be constructed.

46. Latvia claims the right to establish itself and its state identity on the basis of principles it has chosen. For Latvia, like any other state, establishing or, rather, re-establishing itself also means laying down the fundamental principles that form the basis of its identity. In this case, it has established itself as a multicultural nation based on the principle of integration. This process is still in its early stages and will take time until it will be fully accomplished.

47. In accordance with its official statements and its measurable acts, Latvia has apparently chosen a policy of integrating the various minority communities (rejecting any form of assimilation policy). This policy is based on the Latvian language. Indeed, mastering the Latvian language became the key criterion for citizenship. The authorities have consistently maintained the principle that there is and will be only one official language, Latvian. This presents no problem and the obligation of every citizen to speak the official language is not an act of assimilation, as long as the Latvian dimension of the country's identity is not culturally exclusive and is not accompanied by a message that suggests an asymmetrical political relationship between citizens of Latvian origin and other ethno-cultural communities. Intercultural respect and dialogue should be linked to the policy to develop a Latvian civic sense.

48. The rationale which led the resurrection of the Latvian state was neither ethnic nor civic, but (geo)political. Basically voluntarist, this kind of approach is always risky. For the political project to be successful, one has to build a civic and multicultural Latvian nation. In this endeavour the stress should be placed, first and foremost, on the *civic* dimension – since it has an integrative vocation – and only afterwards on the *multicultural* dimension – able to assure the flexibility of the state's system. This sequence concerns the accents and not the goals. Both dimensions – civic and multicultural - have to be developed simultaneously because without a multicultural integration one could not built the civic spirit. However, since there is a contradiction between multiculturalism and civic order, whenever they are asked to give substance to a political project it is obvious that one should give priority to the unifying elements and not to the dividing or differentiating ones. In the given context (a post-imperial one) the question is not about what is it desirable (namely the full enhancement of the Council of Europe's requirements and standards concerning the minorities) but about what could be done for the minorities, at each and every historical stage, so that the political project is not put in jeopardy. Irrespective of whether or not the initiation of that political project was justified, once it is launched it has to be successful because otherwise its failure would produce considerable consequences for interethnic relations, leading to a real disaster.

49. For a civic and multicultural state the official language is no longer so much a matter connected to the ethnic identity as a matter of pragmatism in communication. The official language as an identifying factor of the civic nation (state) could be doubled by a *de facto* multilingual practice at the level of the society, encouraged (for various good reasons) by the appropriate public policies and / or by education in the language of the different national minorities. From this perspective – while requests for multilingual inscriptions or the possibility to address the justice system and the local administrative authorities in one's mother language, in those cases where a certain minority exceeds a certain percentage within a certain local community, are in line with the current European requirements – requests for a second official language appear exaggerated. The various national (ethno-cultural) minorities must be equal among themselves but none is entitled to be equal to the state (thus becoming a state in the state).

50. The Latvian authorities I met emphasised the great amount of work that had been done to promote the culture of all the minority communities in Latvia, recalling in passing that after 50 years of communism those communities themselves had lost their roots and traditions. In the framework of these programmes, the authorities mentioned that they work in co-operation with those NGOs and associations fostering intercultural dialogue and an apolitical approach to the question.

⁸ In order to understand better the complexity of the situation and to be fair, one should mention that a considerable share of the Russian-speakers supported the struggle for independence, voted in favour of independence at the referendum in March 1991, and that not a single violent attempt to defend their interests has ever been recorded on the part of the Russian-speakers in Latvia, contrary to some other former Communist countries. This is extra evidence of how subjective public perceptions can prevail over facts and of how dangerous intemperate rhetoric on ethnic rights can be.

51. Allegedly there are some 109 advisory boards in the country, as well as a special advisory board at national level, that include representatives of all communities. These boards should be consulted about every draft law concerning minority communities. There are various projects to further strengthen consultation mechanisms and structures.

52. In turn, some representatives of the Russian minority claimed that this information is not true or at least is exaggerated. They said that at the national level, the Minority Consultative Council attached to the former President G. Ulmanis functioned between 1996 and 1998 and after the election of the current President V. Vike-Freiberga, it was abolished. As for the specialised boards, currently only two exist. The first one is on minority education issues at the Ministry of Education. The majority of its members represent the Ministry's bureaucrats and school administrations. Only a minority are representatives of relevant NGOs. Even these NGOs are chosen by the Ministry itself, and often they do not represent the genuine views of the persons and groups affected. Under the previous minister Mrs Ina Druviete, the board was not summoned for more than half a year. Another board is attached to the Secretariat of the Minister for Special Assignment on the Society Integration. According to the same sources, it is not clear if there are any legal provisions obliging any state body to consult the boards about every draft law concerning minority communities. The governmental allegations about "various projects to strengthen consultation mechanisms and structures further" were described as "a clear export version intended for foreign visitors" which "has little to do with real life". These completely divergent presentations of some simple facts, which the Latvians directly involved and concerned have no difficulty in evaluating properly, show the degree of mistrust, bitterness and refusal to cooperate which are characteristic in certain circles.

ii. Position of the Russian-speaking community

53. The Russian-speaking community is heterogeneous, rather than unified. This community is itself multicultural, Russian being the only thing its members really have in common. It has to be borne in mind that a large proportion of the community – the people who arrived in Latvia before 1940 and their descendents – is integrated in Latvian society. A large part of the community is a traditional minority by the generally agreed criteria – 42% of ethnic Russians were registered as citizens by birth, which means that their ancestors lived in Latvia before annexation by the Soviet Union and possessed the citizenship of the pre-war Republic of Latvia. Thus, the "old Russians" make up close to 20% of the entire population of Latvia. Slightly more than a half of the Russian-speakers arrived after World War Two, and great majority of these people were either born in Latvia or spent almost all their lives there. Under these circumstances (which are not disputed by anyone) it is quite obvious that the biggest part of the Russian-speaking community is not and should be not be dealt with as resulting from the Soviet occupation. In spite of that, the collective perception makes a link between everything which is Russian and the Soviet rule, probably assuming that many members of the pre-war Russian community from Latvia welcomed the country's annexation by the USSR. At the same time, even if most of the references to foreign occupation are to the Soviet occupation, the older Tsarist "occupation" (in fact the first modern Latvian state was established at the end of World War One), is apparently still remembered and fuels distrust and resentment towards the Russian minority (including the traditional one). Thus Russia is regarded, at least by a number of people, as some kind of a "hereditary enemy" or an "eternal threat" and the Russian minority as its agent in Latvia. Such feelings, which also suggest an unacceptable collective guilt and collective punishment, should be rejected. This requires a vigorous programme of education and a reconciliatory policy.

54. Allegedly there are some 6,000 Russian-speaking associations that represent various interests and views. This figure seems heavily overestimated. Apparently only two to four hundred such associations are formally registered, of which only several dozen are in fact active. However, even if we refer to the smallest figure only, it is clear that not only the right of association is observed and exercised but that the message sent by the Russian minority through so many channels could not be but very diverse and diversified.

55. According to some sources, the majority of Latvia's Russian-speakers do not identify themselves with Russia politically, and would strongly object to the presumption that Russia represents them and speaks on their behalf. If this is true, the situation would appear to be substantially different from the general attitude of minorities in other parts of Europe. However, such a statement itself shows that a part of the Russian minority (even if a minority within the minority) looks towards Russia as to a so-called kin-state which is expected to protect them. It could not be excluded that this group is divided between those who only expect a cultural support or privileged cultural relations and those who envisage also political cooperation. Within this context it is important to note that the more unfriendly the Latvian official approach towards the national minorities is, the greater will be the minorities' recourse to Russian aid. In turn, the Russian Federation openly stated that it considers the protection of the Russian minorities abroad (including Latvia) to be its responsibility.

56. One has to acknowledge that part of the Russian-speaking community in Latvia resists integration. This attitude could perhaps be interpreted as a typical reaction of an “imperial minority”, in other words, the former “masters” of a now defunct empire. Moreover, the Russian-speaking community sees itself as having reconstructed the devastated country after the war at a time when the Latvian community was at its lowest ebb. Its members are eager to say how insulted they are by the expression of anti-Russian sentiment and a political discourse in which demonisation of the past and the soviet occupation are recurrent themes and which by implication lay a sort of burden of original sin on the present Russian community⁹. Even if such sentiments are sometimes without foundation, they should be understood and respected, as well as accepted as a matter of dialogue.

57. For all that, the Russian-speaking community clearly sees the danger of becoming politically, socially and economically marginalised. The reactions against these dangers are different: some are ready to accept assimilation; some others are looking for an active integration; yet others are tempted by cultural self isolation and by some kind of civil (passive) resistance. Active integration is the attitude one should encourage and the process one could assist.

58. When speaking about the Latvian integrative approach in contrast with the assimilation policies, one must note that even the very concept of “integration” is divisive since it is interpreted in different ways by the government and the Russian-speaking community. While the official policies place the stress on the acquisition of the Latvian language, and acceptance of the “official” version of history (which is often harsh about the nations to which the minorities feel a part of), citizenship legislation and language policies as the main criteria for integration, the Russian-speakers emphasise the need to ensure their effective participation in decision-making, recognition of and respect for their distinct identity, by adapting the system of state government to the multicultural and multilingual nature of Latvia’s society (which sometimes normally presupposes the acceptance by the majority of positive discrimination in favour of the minorities).

59. Without any doubt respect for cultural diversity and the full implementation of minority rights is a part of the integration concept. This being said one should make it clear that the national minorities’ rights and subsequently interethnic relations are about power sharing and therefore they have a political connotation and a political nature. Therefore the respective rights are not self-evident or aprioristic but they are the result of negotiations (between the state and the citizens concerned). The European requirements are the framework and the guidelines for such negotiations. When the minorities are asking for “effective participation in decision-making” such a request is in principle sensible but one should observe that the political co-decision on ethnic bases implies the acceptance of the positive discrimination, a concept which has not yet been standardised at international level. Likewise, when the minorities think that “respect of their distinct identity” should be achieved “by adapting the system of the state government to the multicultural and multilingual nature of the society” this might mean, possibly, organising the state and its administration on ethnic bases which is not only against the current global trends and the European process but also against, among others, the most recent recommendations of the PACE concerning the concept of nation. Therefore such an adaptation of “the system of the state government” should not transform the civic and multicultural state into an ethnic or even a multinational state.

60. Care also has to be taken not to oversimplify the analysis of the situation. The representatives of the minorities do not express only dissatisfaction and fear. According to an important number of NGOs and associations representing various communities, as well as representatives of certain political parties, feelings about the situation of national minorities in the country were not running as high as they had been. Most of my interlocutors welcomed Latvia’s ratification of the Framework Convention as a decisive step forward that had stabilised the situation at political level and defused the debate. There were no more street demonstrations, for example. With some exceptions everyone agreed that the basic cultural rights of the minorities were respected. The majority of the NGOs also agreed that legislation complied with the minimum recommendations made by international organisations (the OSCE and the Council of Europe).

⁹ Added to this is a misunderstanding that arose when the country regained its independence: in the 1991 referendum, a huge proportion of the Russian-speaking community voted in favour of independence. Most probably hoped to be automatically integrated into the new Latvian (civic) nation, as was the idea put forward in the manifesto of the Popular Front then in power. It is worth mentioning that the pre-election programme of the Latvian People’s Front (LPF) in the 1990 elections (when, for the last time, all residents were allowed to vote) contained a provision which could not be understood otherwise than “the zero option” (i.e. citizenship for everybody). This was one of the reasons why many Russian-speakers voted for the LPF then, thus ensuring its constitutional majority and the restoration of independence by parliamentary means. Thus, the non-citizens believe, and not without good reason, that the legislators elected by them simply deprived their own electors of political rights, while keeping their mandates. One of the LPF leaders, A. Panteleevs, told in 1994: “We had a choice – either to deceive [the Russian-speakers], or to shoot. We chose deception.”

61. However, one must stress that the concept of “cultural rights” is rather broad and as yet undefined. According to the current practices, the most basic cultural rights are the right to learn the mother tongue and the right to education in the mother tongue. The right to use the minority language before the public authorities is not generally accepted in Council of Europe member states, though I believe that its acceptance should be highly recommended and encouraged. Likewise, when speaking about the “minimum recommendations” of the international organisations one should observe that some of these were not duly respected. (For example, both the OSCE and the Council of Europe have for years recommended granting voting rights at municipal elections to non-citizens, and this is not implemented.) Nevertheless the general feeling is that the main trend is more minorities friendly even if this positive development does not completely neutralise the suspicious attitude and the reservation of many representatives of the Latvian majority towards the minorities. Such attitudes, which should be discouraged, are unfortunately and also unavoidably common in the new or restored states.

62. For reasons of political opportunism, there is clearly a great temptation for some parties to exist or remain on the national scene, ready to manipulate public opinion’s nationalistic emotions, exploit fears and radicalise the discourse. They arouse passions, recalling the memory of either Soviet occupation or Soviet annexation or a so-called Soviet “colonisation”, on the one hand, or the exclusion of minority communities on the other. Such political positions run counter to reconciliation with the past and integration in a shared future.

63. Latvian society still has to heal the wounds of fifty years of soviet regime which has been considered by some as an occupation or an annexation. History should not be an obstacle to constructing the future. There is therefore an urgent need for historical reconciliation between Latvia and Russia. In order to achieve this, the temptation to use the problem of national minorities as a tool of a political or geopolitical agenda or to restore (or deny in this case, symbolically) the old power relationship between the two peoples needs to be avoided at all costs.

iii. Stumbling-blocks in the dialogue between state and communities

64. The Russian-speaking community’s demands have for several years focused on two issues: education and language, and political participation.

a. teaching of and in the minority language

65. Ms Druviete, Education Minister at the time of my visit, considers that the approach Latvia is now taking to language learning is the right one. It consists of fostering bilingual education, in other words, learning both languages – Latvian and Russian – and language learning through the teaching of other subjects. Pupils in Latvian schools are even going to learn three languages. The education policy consists of favouring a range of language education in eight languages in primary schools and six languages in secondary schools. The Latvian authorities claim that this is the system that obtained before the Second World War.

66. Some representatives of the Russian-speaking minority have a different version. According to them bilingual education has been introduced only in the schools for the minorities. If this is true it is regrettable. However, mention should be made that the learning of the Russian language by non- Russian pupils could not be compulsory since that language is not an official one. Generalised bilingual education would be a wise policy, but wisdom can only be desired, not imposed; just as common sense cannot be regulated by law. Therefore one might suspect that in highlighting the fact that bilingual education is offered only to the minorities who consequently learn four languages in contrast to the three languages learnt by the majority, the respective representatives express implicitly the goal of declaring Russian as an official language. Such a request would not find any support in the current European standards, requirements or practices.

67. In 1919, soon after the establishment of the first modern Latvian state, a Law on Minority Schools Arrangements was adopted, which stipulated that every child has the right to receive primary education “in the family language”, and that the whole curriculum, except for Latvia’s history and geography, is to be taught in the corresponding minority language. The provisions of that law, which is no longer in force, might be a source of inspiration for the Latvian authorities today and a convenient base for talks between those authorities and the representatives of the national minorities in Latvia.

68. The Latvian officials recall that at the beginning of the 1990s Russian was the language of instruction in almost all the country’s schools. When the country became independent in 1991, it was estimated that

100% of Latvians spoke Russian but that only 2 to 3% of Russian-speakers spoke Latvian¹⁰. Latvian became an official language in 1988 and in 1989 the first Act on languages was passed, requiring Latvian to be taught in schools. The second Act, in 1992, strengthened the teaching of Latvian. The first elements of bilingual education in schools were introduced in 1995 (the subjects concerned were left to schools' discretion). Bilingual education was further developed in 1999 with the introduction of "bilingual education models" in every school. The system has now been operating in primary schools for more than six years. The same system was introduced in secondary schools in 2004. Educational reform in Latvia, as described by the Latvian officials, is therefore a gradual, ongoing, multi-phased process.

69. The representatives of the Russian minority describe another version of events. According to them, during the Soviet time, two parallel education systems - from kindergarten to university – existed: one in Latvian and another one in Russian. The number of Latvian-language schools was always much higher than of the Russian-language schools, particularly because many Latvian schools were located in rural areas and were much smaller. According to the last Soviet census (1989) some 23% of ethnic Russians in Latvia claimed fluency in Latvian, and some 70% of ethnic Latvians – fluency in Russian (although the last figure is not completely credible, as many Latvians denied knowledge of Russian as a form of protest¹¹). As per that census, 62% of residents had a command of Latvian, and 81% of Russian. In Soviet times, Latvian was the mandatory subject taught in all Russian-language schools from 2nd to 10th (the last) grade, although the quality of teaching was really disastrous. Only children from the families of military servicemen were exempted from the Latvian lessons. In contrast to "the good old Soviet times" the amendments to the Education law adopted in October 1998 stipulated that starting from 1 September 2004, all secondary education is **only** in the Latvian language. Only several months before that deadline, after protests and mass street rallies, the provision was changed so as to permit teaching of up to 40% of curricula in the minority language.

70. The effort to clarify who is right and who is wrong in describing the past would require from the Council of Europe a great consumption of time, and of human and financial resources. This is not necessary since what is important now is to see what one can do in the present time for the persons belonging to the national minorities living in the post-Soviet Latvia, while the restored Latvian state must try its best in order to build a new Latvian civic nation. The reason why it is, however, important to make reference to the different ways in which history is remembered and evaluated by the majority and the minority is for describing the psychological, psycho-sociological and psycho-political context within which the right solutions are to be found. This proves the importance of the past for all those involved and how much they do believe that only by reference to that past (which they remember differently) can they legitimate or de-legitimate the present policy. For the Latvian majority the recent past is and always has been bad (or at least worse than the present). For the Russian minority the past has always been good (or at least better than the present). The present can only be built by reference to that controversial and obsessive past. On the other hand, it is to be acknowledged that for the minorities (mainly the Russian minority) the Soviet past (even they admit that it was a time of repression and hardship for everybody) is a source of nostalgia as far as interethnic relations and cultural rights are concerned. There is here something more profound than the possible and otherwise understandable feeling of the Russian minority in Latvia today that it lost the dominating position it held in the former USSR for a marginal position in the post-Soviet Latvia. The point is that despite the fact that one was confronted sometimes with a kind of Russian nationalism during the Soviet era and that the Russian language was used also as an instrument of Soviet domination, the USSR was a political project inspired by an internationalist ideology which basically was against any nationalism and tried to establish a transnational society formed by some kind of universal and para-cultural human beings – the "homo sovieticus". In fact the Russian language was only a means of cohesion for a non-ethnic people and not an element of a national cultural identity. If the old Latvian state which was restored was a nation-state erected on ethnic bases and if the present Latvia is a descendent and a perpetuator of that state in all respects, it is clear why, for the minorities the Soviet times would look like a "golden past". That is why it is so necessary to nuance the thesis of the Latvian state continuity and to affirm the political will of today's Latvia to resurrect as a civic (and multicultural) state.

71. The basic idea of the education reform was to gradually promote Latvian (which should be the means of cohesion for the Latvian civic nation) as the language of instruction. At present, the reform sets the objective for primary education as at least three compulsory subjects taught in Latvian. Each school is free to decide the subjects concerned. The rule currently implemented in secondary schools is a pro rata of 60/40: 60% of teaching is in Latvian (or another language, such as English or German) and 40% in Russian.

¹⁰ Currently, 81% of the population of Latvia is believed to speak Russian, but only 56% of Russian-speakers speak Latvian.

¹¹ One could suspect that the same situation characterises today some members of the Russian minority.

72. Implementation of the reform seems to have resulted in a rationalisation of the educational “map”: In some areas where Russian-speakers are very much in the majority, Latvian schools have closed. It should also be mentioned that, in addition to state schools, there are private schools or schools organised by the municipalities that teach in the minority language: there are, for example, six Polish schools in Latvia, three of which are secondary. However, the costs of education in private schools is very high (exceeds average salary). Thus, given the poor economic conditions, this option is available only to a relatively small number of wealthy people.

73. There has been effective educational reform for almost ten years. According to the Latvian authorities, the next stage is to extend the bilingual education system used in most schools in Latvia and above all in the “minority” schools, to all Latvian schools. (As mentioned above, the model of bilingual education is compulsory now only in minority schools. There is no legal provisions to introduce bilingual education also in the Latvian-language schools – a fact which is consistent with the idea of a single official language – and therefore the general bilingual education is a matter of policy, respectively a matter of fact and not a legal obligation). Between 50 and 60% of young Latvians at present learn Russian; English is the third language (though some estimate that English is the most frequently chosen as the first foreign language by ethnic Latvian students). An uncontested positive development is that the number of Latvian students who choose Russian (always offered in the Latvian-language schools as one of the second foreign languages) is growing. It is clear that knowledge of Latvian is poorer in Russian-speaking schools, since the pupils find Latvian difficult. (With the exception of the need to integrate into Latvian society, there is also little motivation to learn a language which is of very limited use outside Latvia). The surveys undertaken by the Education Ministry in 2005 (strongly contested by some of the Russian minority representatives who prefer to rely on the surveys conducted by independent sociologists which produce different results) do not, however, show any educational differences between Latvian and Russian schools as regards general subjects. Moreover, according to the Latvian officials, year after year, the exam results of pupils in bilingual schools are in some subjects better than those of pupils in other schools.

74. This survey was conducted as a response to the concerns and criticisms of parents who, concerned about the education level and fearful for the social integration of their children in European society, had fiercely attacked the quality of education in Russian schools. Some NGOs representing minorities also expressed their concerns about this, in particular emphasising that there was still a problem of training Russian teachers in some subjects that were systematically taught in Latvian, less well-understood by Russian-speaking pupils.

75. The parents have expressed some other concerns as well. In fact, there are two separate problems. The Ministry of Education required the teachers who were previously teaching their subjects in Russian, to pass the Latvian language tests. Some training was provided for this purpose (using almost exclusively the assistance obtained from foreign donors). After having passed these exams, the teachers were told in a mandatory way to switch to teaching their subjects in Latvian. Many parents observe that even if teachers have successfully passed the exams, their knowledge of Latvian is still much worse than that of Russian, and the quality of teaching seriously deteriorates when the lessons are held in the language which is neither the teachers' nor the students' mother tongue. This is particularly true for mathematics and sciences courses. Another problem seems to be even more essential. Despite the fact that the law now permits the teaching of up to 40% of curricula in the mother tongue in secondary schools, and even more in primary schools, the teachers able to teach subjects in minority languages are not trained at all – all pedagogical education is only in Latvian (except for training teachers of Slavonic philology). Thus, even within the limits set by law, the possibility of studying in minority languages is more declared than guaranteed because of the lack of teachers' training. In fact, the main concerns of the Russian-speaking parents are about the quality of education. The government denies the existence of serious problems. The most frequent claim is that many children are simply unable to master complicated subjects in Latvian, and, as a result, the quality of their knowledge worsens, or they appear simply unable to complete the studies in secondary school. Unfortunately, the Government does not have data about the early drop-out rate in minority schools after the introduction of the reform. Whatever the truth may be, the training of those who are supposed to teach in the Russian language should be a serious matter of preoccupation for the Latvian authorities concerned and it must be constantly improved.

76. Several NGOs regretted that the reform was drawn up without consultation and was introduced precipitously. The parents, who are more than anybody else interested in their children's future, should have had a say in the making of decisions so important for the fate of those children. However, everyone agreed that young Russian-speakers should learn Latvian, at the same time stressing that it was important for some basic subjects to be taught in Russian, the language of the economically powerful neighbour.

77. Ms Druviete, like other members of the government I met during my visit, said she was satisfied with the reform. The Latvian government is not prepared to change its present policy: Latvian is the official language and the usual communication language, the one spoken at work and that gives access to the labour market. I myself believe the present education system that exploits the country's linguistic wealth to be a great opportunity for its young people; it is a positive experience. In this context, Latvia needs to put the bitter memories of the past behind her and maintain her virtual bilingualism as a national wealth, taking into account at the same time the fact that the Russian language is the key to her neighbour's major culture and huge economic market. Such bilingualism would also facilitate internal inter-ethnic communication and thus inter-ethnic reconciliation (when necessary), inter-ethnic peace, coexistence and co-operation, as well as civic integration¹².

78. It is of relevance here to refer to the position adopted by the Parliamentary Assembly in April 2006 in its Recommendation 1740 (2006) on the place of the mother tongue in school education, which should be a source of inspiration for the Latvian authorities and political decision-makers in Latvia.

79. Some people believe that there is a contradiction between the central place given to the Latvian language in the education system as the only official language of the country and the recommendation to maintain the virtual bilingualism of the Latvian society. According to the same people the rejection of the idea of giving to the Russian language the same legal status as that of the Latvian language, proves that the ultimate goal of the reform promoted by the present authorities "is the gradual transition to Latvian as the single language of instruction in all Latvian schools, while keeping Russian as just an additional subject both for its native-speakers (i.e. children belonging to the Russian-speaking minority) and ethnic Latvian children." One could hardly agree with such an interpretation. Indeed, bilingualism does not depend (only) on the legal status of a language but on the fact that the respective language is effectively spoken by those who are encouraged, motivated and assisted to do so. From this perspective, on the other hand, the legal provisions which forbid the teaching in universities in languages other than Latvian (the Council of Rectors apparently has protested against such restrictions) or the rejection of the legislative proposal concerning the use of languages other than Latvian in courses for re-training unemployed people¹³, could not possibly be seen as ways of maintaining, consolidating or increasing the society's bilingualism.

b. the use of minority languages in relations with the authorities

80. The language legislation in force in Latvia defines Russian as just a "foreign language". The use of minority languages in oral communication with the state and municipal authorities is simply not guaranteed (the law does not regulate oral communication at all), but in written communication the use of any language but the state one – Latvian – is explicitly prohibited: no submission, complaint, etc. can be accepted from an individual unless it is written in the state language or supplied with a certified translation into the state language. There are, however, regions in Latvia traditionally overwhelmingly inhabited by Russian-speakers. The Russian-speakers also make up about a half of the population in almost all big cities. In practice, this restriction targets mainly elderly and poor people, whose command of Latvian is not sufficient and who have no money to pay for translation and certification. Their problems usually concern everyday issues: pensions, welfare benefits, communal services, etc., and often the rights guaranteed to them by law are effectively denied because of their impossibility to submit an official letter or complaint.

c. participation in political life

81. The first criticism I heard, in particular from NGOs, concerned the lack of dialogue with the authorities and the lack of transparency in the reform process, resulting from the fact that the communities were not involved in preparing the reforms concerning them, including the educational reform. There are a number of institutional mechanisms for the consultation and representation of communities at both national and local levels. Some NGO representatives told me that the advisory boards no longer operate

¹² Some representatives of the Russian minorities insisted that "it is important to stress that Russian is, first of all, the language of the biggest traditional minority, the language which was widely used in Latvia for centuries" and to leave aside the argument that the Russian language is the language of a great culture and of an important neighbouring market. Such an approach, even if morally valid, is at the same time politically irrational and legally irrelevant. Indeed, the fact that a minority speaks a language could not be a better motivation for the majority to learn it than the fact that the respective language is important from the cultural and economic point of view. Likewise, the historic argument that a language was widely used in the country by a traditional minority does not create any right to its actual speakers to challenge the official language and to ask for an equal linguistic status. This kind of argumentation shows that for some of the minorities' leaders it is more important to win the argument rather than to win the rights.

¹³ Most of those unemployed are people with a low level of education, and those belonging to the Russian-speaking minority often cannot effectively learn in Latvian (particularly people nearing retirement age). This problem is most typical in Latgale, where an absolute majority of customers demand services in Russian.

satisfactorily, if at all, and that their role was more symbolic than genuinely operational. The government authorities I met told me exactly the opposite.

82. Naturally, a most significant question is the political representation of non-citizens and the issue of the right to vote which, according to some of the political parties and NGOs I met, should be granted to non-citizens, at least at local elections, as well as at national elections. Non-citizens have no electoral rights. In some people's opinion, Latvia's membership of the European Union has made this situation absurd, since all citizens of an EU member country who have lived permanently in Latvia for at least six months have the right to vote at local elections. The representatives of the Russian-speaking parties told me that Estonia had given its non-citizens the right to vote at local elections with no problem.

83. The position of the Latvian authorities is clear: it is out of the question that non-citizens should be given the right to vote and eligibility; if they so wish, there is nothing to stop them becoming full citizens and taking the necessary steps to apply for naturalisation. The authorities therefore perceive the right to vote and eligibility for non-citizens as an encouragement to those Russian-speakers who refuse integration to remain outside the Latvian civic order by obtaining rights without civic obligations. Although this view is based on a number of appealing arguments, it is nonetheless debatable. In my opinion such a distinction concerning the electoral status might be seen as a clear discrimination. Residing for a long time in Latvia should be as good an argument to legitimate the right to vote in local elections, as the fact that one is a citizen of another EU member state. The idea that if they want to vote or to be elected they can choose the way of naturalisation ignores the state's duty of non-discrimination and does not measure the will of the individual subject of law. In this case, I am afraid, one could talk about a breach of the Framework Convention for the Protection of National Minorities as far as the non-discrimination criteria are concerned, even though one could also counter argue that the EU itself would not welcome within its area of jurisdiction voters who are not citizens of its member states.

d. access to the civil service

84. Access to the civil service is another problem: the ethnic origin of 93% of civil servants is Latvian. One of the explanations is, of course, the Russian-speakers' lack of the Latvian language, a prerequisite for admission to the country's civil service. The argument that the Russians do not speak Latvian is questionable since the official figures do not confirm it. In the early 90s, there was a dramatic increase in the command of Latvian. The New Baltic Barometer survey conducted in 1995 revealed that already 62% of ethnic Russians spoke Latvian. It is hardly probable that since then the knowledge of Latvian has decreased, particularly given the changes in the language and education legislation described above. Naturally, many of elderly Russian-speakers have not mastered Latvian, while among young Russians in Latvia fluency in Latvian looks quite common nowadays.

85. The Minister for Integration indicated, however, that his ministry employed 60% Latvians and 40% non-Latvians.

iv. The role of the Russian Federation

86. The Russian Federation is the main successor and the continuity right holder of the USSR. In that capacity it has not only a right but also the duty to participate in the settlement of the status of the former citizens of the former Soviet Union who did not become citizens of other states. This right and duty are even more evident when it is about persons who after losing Soviet citizenship as a result of the USSR's dismantlement did not get the possibility to opt for another citizenship (certainly not the citizenship of the former Soviet republic where they resided at the date of the respective republic's independence). Under such circumstances the "Latvian non-citizens" are entitled to receive the Russian Federation's assistance, just as the Russian Federation is entitled to assist the said non-citizens in the establishment of the succession of their citizenship rights. This should be done in co-operation with the Latvian authorities, representing the state of residence and another successor of the USSR.

87. As far as the Russian-speaking citizens of Latvia are concerned, the only state having a legal relation with them – and consequently having legal rights and legal obligations towards them – is the sovereign and independent Republic of Latvia. In this respect Latvia is bound by its international undertakings, commitments, obligations and responsibilities freely accepted when signing or adopting the international pertinent agreements, covenants or conventions or when acceding to international organisations such as the Council of Europe. Some of those commitments and obligations are legally binding while others have a political nature. From the first category some are subject to direct enhancement while others are mere requirements which imply the duty of diligence. Russia is entitled to request the full

compliance of Latvia with those duties in accordance with the procedures established by the appropriate international legal instruments and in accordance with the principle *pacta sunt servanda*.

88. As a multiethnic federation – that is to say as a civic and multicultural state, thus not established on ethnic bases – Russia is not a kin-state of the Russian-speaking minority of Latvia. Even if it had been a kin state of that minority, in accordance with the most recent Recommendations of the PACE (Recommendation 1735 (2006)) it would have no more right than any other state to support the effort dedicated to the preservation and consolidation of the cultural identity of the Russian community in Latvia. Such support must be provided only in agreement with the Latvian authorities and in full compliance with the Latvian and Russian laws.

89. On the other hand, the Russian ethno-cultural community from Russia is the core of a cultural nation which exists beyond the states' borders, without any statehood and territorial connotation. The Russian-speaking minority from Latvia is part of that spiritual form of nation with which it shares the same cultural values. Cultural ties between those sub-groups of the Russian cultural nation should be allowed and facilitated. They should in no way be seen or used as an attempt to undermine the internal unity, coherence and cohesion of the Latvian state. It is advisable that both civic nations (states) – Latvia and Russia – work together in order to support the spiritual communication between the ethnic Russians or Russian-speaking people from the Russian Federation and Latvia, as well as between the ethnic Latvians from the two countries.

90. The Russian Federation has adopted legislation and has created institutions dealing with the so called "compatriots (from) abroad". This represents the internal Russian legal ground and institutional framework for the relationship between the Russian federal civic state and the ethno-cultural minorities from abroad (including Latvia). The only logical understanding of this kind of relationship implies that those minorities are identified by a unifying cultural trait which originated in the common trans-ethnic Soviet past. Thus, the "compatriots from abroad" are not only ethnic Russians but any other ethnic group – preferably speaking Russian but as the official language of the former USSR and not as the language of a certain ethnic family – who have in common the experience of the Soviet life (including the Soviet inter-ethnic coexistence) and some kind of Soviet cultural (not political) nostalgia. As the guardian of the Soviet cultural continuity the Russian Federation feels entitled and obliged to network the post-Soviet national minorities or ethno-cultural communities within a trans-national community and to preserve the old inter-national (ethnic) Soviet style of life and of cultural creation. Even if the old Soviet ideology as well as the old Soviet socio-economic organisation and geo-political behaviour are actually officially rejected by Russia, the old Soviet cultural identity is cherished. (Even if Russia was an immense "prison" where human rights were completely denied – which is perceived by many as a slightly exaggerated description – the "prisoners" have developed there their own style of surviving, of enjoying life, of establishing inter-human relations and they are entitled, now they are free, to keep their old contacts and to celebrate together their joint history with everything it has good and bad, nice and ugly.) This explains why I was able to meet Russian citizens of Latvian origin who speak about the Latvian citizens of Russian origin as their compatriots.

91. Such a unique approach is suspected in Latvia and in other places of hiding an agenda for the restoration of the past Soviet influence under the claws of the present Russian Federation. That integrative trans-ethnic message offering as a criterion of cohesion the Soviet cultural solidarity which allegedly survived the Soviet political construction, might have an important appeal for the national minorities from the former USSR (including Latvia), giving them a scope and a perspective respecting their dignity, mainly when they are treated in an unfriendly manner or with reservation by the national authorities of the newly-resurrected post-Soviet nation-states where they live.

92. Against this background the quality of the relations between Russia and Latvia has unavoidable consequences on the relations between each of these respective states and the Russian or the Russian-speaking minority from Latvia; likewise, tensions in the relations between the Latvian state and the Russian minority living there have a negative impact on Latvian-Russian relations. This vicious circle could and should be transformed into a virtuous circle. A key factor in this respect is that the relations between Russia and the "compatriots from abroad" are pursued within the framework and in strict compliance with international law. At the same time the development of Russian-Latvian cultural relations (as well as, of course, political and economic ones) is of paramount importance.

93. From the point of view of some representatives of the Russian minority from Latvia one should not put too heavy an emphasis on the role of Russia (be it as a kin-state or only as a neighbouring power). Consequently the problem of the Russian minority in Latvia should be considered as primarily an internal Latvian and not an inter-state problem. It is hard to say how many of Latvia's Russian-speakers do not identify themselves with Russia politically (some say the absolute majority, which very well might be the

case) but it is clear that while many look to Russia as their place of cultural origin, on one hand, a certain number of them would strongly object to the presumption that Russia as a federal state represents them and speaks on behalf of them and others on the other hand, believe that Russian external support makes their relations with the Latvian majority even more difficult. Few are of the opinion that the problem of the "compatriots abroad" is rather a domestic policy issue in Russia and that it should remain as such. Many people in Latvia believe that the Latvian people of all nationalities must be able to resolve the internal problems between the government and the Russian-speaking community regardless of Russia's position. Therefore one should conclude that Russia's government is not the appropriate party to negotiate the situation of the Latvian Russian-speaking citizens with the Latvian authorities. However, this conclusion based on many opinions – expressed by both the minorities and the majority – and on a few solid principles, could deny neither the reality of the regional balance of powers nor the political impact of Russian action or the factual magnitude of Russian influence. These cannot and should not be ignored. Therefore the appeal addressed to both Latvia and Russia to improve their bilateral relations and to refrain from including on their political agendas the problem of national minorities as a means of international bargaining in an attempt to promote geo-political goals, should be maintained.

IV. Conclusion

94. Latvia is a stable, modern, democratic country which, in the framework of the integration policy put in place several years ago, is moving at its own speed towards the resolution of its problems, some of which – such as the fate of non-citizens – are structural. There are no real inter-community problems. Especially since, now the country has joined the EU, public opinion seems to be focusing more on the economic and social situation than on identity questions.

95. It is clear, however, that the cultural and educational integration of the civic Latvian nation is coming up against the nationalist discourse and instincts of certain sections of the post-imperial (post-Soviet) ethnic majority, as well as resistance from part – fortunately a minority – of the Russian-speaking community for reasons that have as much to do with psychology as with political manoeuvring.

96. Some members of the Russian-speaking community (provoking or echoing their counterparts within the majority) have very radical demands and sometimes adopt extremist positions. Even if this group is quite small, by being very active and vocal it could set the main trend for the nature of inter-ethnic relations in the country. Accordingly, in the long run, there is a danger that the whole community will be marginalised, not only in the country itself, but also in relation to Europe. The people concerned, in Latvia and in neighbouring countries, need to be fully aware of this. Defending rigid, outdated positions at any price will lead nowhere. One should not be taken in by the political game being played out both internally and externally. It is regrettable that the rights of national minorities as protected by the Council of Europe are in fact being used as a pretext for political ends. Such political manoeuvring does not facilitate genuine protection of the rights of national minorities and does not speed up their complete application in accordance with European standards. On the contrary, it holds minorities and their rights hostage.

97. Conversely, if the members of the Russian-speaking community are totally excluded from government and political decision-making, they cannot be expected to be loyal to a state that keeps them at arms' length. From the viewpoint of the existing standards on the subject, the idea of eventually developing non-citizens' participation in local political life cannot be dismissed out of hand. Such a change would require the country's governing authorities to realise the advantages of this for social cohesion and the stability of the country before public opinion does. Constructing a nation or society is a far more difficult task than constructing state institutions. In order to construct a state, it is enough to dominate it, to master the power. In order to construct a national society with a civic sense, it is necessary to convince by offering an integrationist vision that inspires all the subjects of the state concerned. National cohesion is based on relationships of trust and loyalty that go both ways. The always essential security of a state cannot be based on the limitation of the rights of persons presumed to be disloyal. In the short term, a degree of caution as to the willingness of people linked with a former imperial structure to change their loyalty may be understandable. One must accept that multiple loyalties may exist. After all, the prospects for the integration of everyone prepared to participate in the work of building the Latvian nation need to be absolutely clear and guaranteed from the outset.

98. Generally speaking, the important work the Legal Committee has recently done on the concept of "nation", which resulted in the adoption of Recommendation 1735 (2006), is relevant to Latvia, whose (re)construction of a civic multicultural nation is based on a highly charged historical context and a specific sociological and demographic structure.

99. In assessing the situation of the national minorities in Latvia one should look separately at and make the difference between the mentalities (or the mood towards the inter-ethnic issues), the commitments, the achievements, the real possibilities to pass from the commitments to the achievements. (This passage is and could be but a process and not a single act event.) On such bases one must contextualise, prioritise and move gradually, keeping fix and firm the final goal (thus offering to all national communities a clear and secure perspective, while respecting their dignity), while adapting permanently the ways and means to overcome the real obstacles. From such a perspective one could conclude that:

- **the mentalities:** the culture of the respect for diversity and the easy acceptance of multiculturalism are burdened by bitter and controversial perceptions of the past, by current geo-strategic fears and by a number of national(istic) stereotypes, resentments and prejudices; therefore the overall atmosphere is not minority-friendly and does not facilitate the social integration of national minorities;
- **the commitments:** despite the reservations included in the declarations made when ratifying the Framework Convention for the Protection of National Minorities, Latvia is at the level of the general European requirements concerning its commitments to recognise, respect and implement minorities' rights; one could say that the official vocabulary on national minorities is correct even if the grammar is still influenced by a nationalistic way of thinking, and that the level of the commitments is above the level of the popular mentality on the matter; therefore one may conclude that the minorities have a rather clear and positive perspective about their future in Latvia;
- **the achievements:** the progress in achieving the commitments is real but relatively hesitant; there is still a long way to go until the achievements will reach the level of the commitments and thus of the European standards; this fuels the impatience of some members of the national minorities and against this background some political manoeuvres are facilitated;
- **the pace of the progress within the given context:** the pace of the progress towards meeting all European requirements concerning the national minorities' rights is relatively slow; however, it seems to be the fastest possible one in the given socio-economic and cultural-political environment; the relation between the possibilities and the achievements is at an appropriate fair level¹⁴.

100. In response to the questions raised in paragraph 42, one could put forward some provisional conclusions:

- **rights:** the Latvian authorities have accepted the Council of Europe standards (the programme-type provisions) in their entirety but they are applying them in the particular context of constructing the identity of a post-imperial civic (and, in this case, multicultural) state; the gradualness of the process – slowed down by the fear that the national minority that is heir to the former “occupying” majority remains loyal to the collapsed empire, rather than to the new civic Latvian nation – means that one constituent section of the population of Latvia does not have all its rights and that other constituent sections are not completely satisfied with the level of rights they have;
- **equality:** the fundamental principle on which the Latvian authorities decided to operate is that of genuine equality between all citizens (setting aside the as yet unresolved question of non-citizens, of course); in this sense, the authorities are not in principle hostile to a policy of affirmative measures; on the other hand, at least part of the Russian minority, afraid that its cultural links with the country seen as the former occupying empire may be exposed to the hatred of the new majority and to a status of social, cultural, political and even economic marginalisation, is demanding both equality with all Latvian citizens by immediate application of all European standards on the rights of minorities and the ability to isolate itself within an ethnic group through a distinct identity guaranteed by a form of discrimination (some kind of internal self-determination) that may be positive but is certainly radical (if not even excessive) and worrying for the country's civic project¹⁵;

¹⁴ Bearing this in mind, one should note that usually the radicalism and the excessive, irrational behaviour and demands of some members of the national minorities, consist not only in their secessionist claims (which is not the case in Latvia) but also in the attitudes suggesting an inclination towards cultural-linguistic segregation and self isolation, and even in the dogmatic-legalistic approach towards the question of their rights, associated with the refusal of the contextualisation and prioritisation of the process of intercultural integration of the society as well as in the imperative request to be protected – irrespective wherefrom and under what conditions such a protection would come – instead of the constant effort to build a partnership based on the co-responsibility with the majority.

¹⁵ Maybe, those who protested against this remark are not aware that when minorities are asking for their language to be a second official language they are asking in fact at the same time for a form of positive discrimination situating them at the same level as the majority and to be placed above the other ethno-cultural communities, that is to say at a virtually equal level with the state. At the same time, even if the wording is not very explicit, the insistence in being educated

- **integration:** the contradiction between the cautious integrationist gradualism of the Latvian government on the one hand, and the imperative segregationist impatience of the Russian community (or at least a significant part of it) on the other, against a background of a tense relationship between Latvia and the Russian Federation, is creating problems for the process of reconciliation, partnership and interethnic integration; in this context, Russia feels she has an obligation to the Russian population that remained in Latvia after the departure of the soviet administration, while Latvia fears that this expression of responsibility masks the geopolitical interests of the former occupier and its wish to legitimise its intervention in Latvian politics. This proves how important it is for relations between the two countries, including those between Russia and the Russian/Russian-speaking community of Latvia, to be based on international law and for responsibility for guaranteeing the application of standards on national minorities to be transferred to multilateral international authorities such as the Council of Europe.

101. I have endeavoured in this memorandum to give an overview of the situation in Latvia from the viewpoint of its minorities. I believe it will be useful to follow constantly in the future the developments in this field thus perhaps gaining some insight into the evolution of Latvian society – in particular whether or not there is a renewal of radical and racist discourse and confirmation of the trends identified during the European elections in favour of nationalist and extremist parties. Following the assessment, the Council of Europe should decide on the future advice, assistance and policies to be delivered in respect of Latvia.

102. I do not intend to discuss here the proposals or positions others have taken. I note that in Latvia, as in all the member states of the Council of Europe that are finding it difficult to turn the page on a painful and still very present past, time should be allowed to do its work. In this situation, it is important to distinguish between “national minorities” as such and “imperial minorities”. The specific problems of the latter can be resolved only by finding ways of dealing with the “post-imperial syndrome”, in Latvia and Russia as well as in the Russian-speaking community, and defining their post-soviet status.

103. Based on the above observations my general recommendations will emphasise:

- the need to strengthen still further the relations between ethnic communities and intercultural dialogue and to have a more constructive dialogue with representative of NGOs and associations;
- the need for a more proactive examination of the ethnic communities' civic integration, including their integration in the political process and the civil service;
- the need to re-open the bilateral political dialogue and promote high-level contacts between the Latvian and Russian governments in the framework of a good neighbourly policy that remains to be developed in the region.

104. These recommendations are of course made in the broader framework of the existing standards and guidelines on the promotion of national minorities with which Latvia, as a member of the Council of Europe, the OSCE and the European Union has undertaken to comply.

105. To these general recommendations the following more specific ones should be added:

- the Latvian government should be invited to re-consider its attitude towards the issue of granting permanent resident non-citizens voting rights at municipal elections;
- the Latvian government should be invited, likewise, to re-consider its attitude towards the issue of granting automatic naturalisation to those non-citizens who are pensioners or are above a certain age;
- the Latvian government should be invited to re-consider its attitude towards the issue of the use of minority languages in writing before public authorities;
- Latvian government should be invited to re-consider its attitude towards the issue of better training for the teachers who must be able to teach subjects in minority (first of all, Russian) languages; (The state is obliged, in particular, under the Framework Convention, not only to allow certain parts of curricula to be

almost only in the minority language speaks clearly for more than an equal right with the majority, respectively for the isolation within a different linguistic group; this is equal to a cultural segregation. To these should be added the repeated requests for the application in Latvia of the Åland Islands or South Tyrol models, models which are not only based on positive discrimination (this is *per se* not a bad thing) but which were adopted in different historical times, in different cultural and geo-political environments and which therefore are actually both inappropriate and obsolete.

taught in minority languages but also to ensure all necessary preconditions for it – the training of teachers being one of the most important.);

- the Latvian government should be invited to re-consider its attitude towards the issue of the multilingual inscriptions to be used in those places where the percentage of the minority population goes beyond a certain level;

- the Latvian government should be invited to make sure that the history books used in the Latvian schools avoid any presentation which could be humiliating for the minorities or which could embitter the inter-ethnic relations while trying to present the past in a de-dramatized way, marking all concurrent views on it and both the majority and the minority perspective of the most important historic events;

- the minorities from Latvia should in turn be invited to avoid any dogmatic approach to their rights, to behave as integral parts of the Latvian civic nation's system and to exclude the anti-system rhetoric, to promote a gradual, contextualised, prioritised and inclusive approach when defending their cultural rights, rejecting any form of cultural or social segregation or isolation.

106. Moreover, in order to avoid the kind of difficulties which arose in Latvia as a result of getting its independence and restoring its statehood, as well as difficulties which have not (yet) been encountered in Latvia, but which might occur in the future or in other cases having similar features, the Rapporteur believes that the international community should adopt the following principles, to be observed when dealing with processes of self-determination, secession, new states' emergence and states' succession:

- whenever a new state emerges as a result of a process of international self-determination and secession, all persons officially residing on the territory of this state at the date of its independence will have the full and undisputed right to freely opt for the citizenship of the respective state or of any other state resulting from that process and which is the successor of that state within which the self-determination took place;

- whenever a new state emerges as a result of a liberation process which ends a foreign occupation, all persons officially residing on its territory at the date of its independence, including those who settled there as a result and in the context of the occupation, will have the full and undisputed right to opt for the citizenship of the respective state with the exception of those who, in the exercise of the occupant's authority have violated human rights; all those ethno-culturally linked to the former occupant, who settled in the newly liberated state as the result and in the context of the occupation and who opted for the citizenship of this state after the withdrawal of the occupant's military forces and administration, might be subject of the lustration procedures enhanced in compliance with human rights principles and following the rules recommended by the PACE's Resolution 1096 (1996) concerning the dismantlement of the heritage of the totalitarian communist systems;

- any request of an ethno-cultural group (national minority) for internal self-determination could not be considered by the international community as justified and legitimate if:

- a) the state whose citizens the members of the requesting group (minority) are, respects and applies in good faith the minimal European standards, norms, requirements and guidelines concerning the minorities' rights;

- b) the internal self-determination tends towards any form of internal inter-ethnic isolation and puts in jeopardy the cultural integration and the economic, social, political or moral cohesion of the state;

- c) the internal self-determination has in view to organize the state's territory or its administration on purely ethnic bases or to institute the domination of a cultural-ethnic group over the other cultural-ethnic groups living on a certain territory.

- in those cases when the internal self-determination could not be considered as justified and legitimate, it could be nevertheless allowed on the bases and as the exclusive result of internal political negotiations between the authorities of the concerned state and its interested group of citizens.

APPENDIX I

Programme of the fact-finding visit to Latvia of Mr Adrian Severin, Rapporteur (20-21 March 2006)

Monday 20 March 2006

- 15:30 – 17:30** Meeting with representatives of Human Rights NGOs
[Council of Europe information center]
- 17:35 – 19:05** Meeting with leaders of cultural societies of different minority groups
[Council of Europe information center]
- 19.30 – 20.30** Meeting with **Mr Valentin Ovsyannikov**, Minister-Counsellor of the Russian Federation Embassy in Latvia and **Mr Vladimir Ivanov**, Counsellor of the Russian Federation Embassy in Latvia

Tuesday 21 March 2006

- 9.00 - 09.55** Meeting with **Mr Ainars Latkovskis**, Minister for Special Assignment for Society Integration Affairs
- 10.10 - 11.10** Meeting with **Mrs Ina Druviete**, Minister of Education and Science
- 11.20 - 11.55** Meeting with **Mr Aigars Kalvītis**, Prime Minister
- 12.05 - 13.05** Meeting with **Mr Normans Penke**, State Secretary of the Ministry of the Foreign Affairs
- 13.20 - 15.20** Working lunch hosted by the **Latvian Delegation to the Council of Europe Parliamentary Assembly**
- 15.35 – 15.55** Meeting with **Mrs Vineta Muižniece**, Vice-Speaker of the Saeima
- 16.00 – 16.50** Meeting with the opposition parties of the Saeima
[Parliament]
- 17.00 - 17.40** Meeting with **Mrs Eiženija Aldermane**, Director of the Naturalisation Board
- 17.50 - 18.30** Press-conference with the representatives of the Latvian mass-media
[Parliament]

APPENDIX II

Programme of the fact-finding visit to Moscow of Mr Adrian Severin, Rapporteur (23-24 May 2006)

Tuesday 23 May 2006

- 17.10 – 18.20** Meeting with **Mr V. Alksnis**, member of the State Duma Committee for CIS Affairs and relations with compatriots (Narodnaya Volya Faction)
[State Duma]
- 18.20 – 20.00** Meeting with **Mr Y. Kvitsinsky**, First Deputy Chairman of the State Duma Committee on International Affairs (Communist Party Faction) and with **Mrs N. Narotchnitskaya**, Deputy Chairman of the State Duma Committee on International Affairs (Rodina Faction)
[State Duma]

Wednesday 24 May 2006

- 9.00 - 10.00** Meeting with **Mr V. Titov**, Deputy Minister for Foreign Affairs
- 10.30 - 11.30** Meeting with **Mrs E. Mitrofanova**, Head of the Russian Center on international scientific and cultural cooperation at the Foreign Ministry
- 12.10 - 12.20** Meeting with **Mr L. Slutsky**, Vice-Chairperson of the Russian parliamentary delegation to the Council of Europe
- 12.20 - 13.00** Meeting with **Mr A. Klimov**, Deputy Chairman of the State Duma Committee on International Affairs (United Russia Faction)
[State Duma]
- 14.30 – 15.30** Meeting with **Mrs E. Pamfilova**, Chairperson of the Human Rights Commission under the President of the Russian Federation

APPENDIX III

AS/Jur (2006) 25
2 June 2006

Comments by Mr Boriss Cilevics, Member of the Latvian Delegation on the Information memorandum submitted by Mr Adrian Severin, Rapporteur (Document AS/Jur (2006) 14)

Factual mistakes and inaccuracies, as well as unclear points

1. Para.11 [See new paragraph 18 in document AS/Jur (2006) 27 rev]: “Legally, the non-citizens are not stateless persons”. In fact, this is true merely from the point of view of the national legislation of Latvia: non-citizens are not, indeed, subjects of the Law on Stateless Persons, and their status is regulated by another piece of legislation – the Law on the Status of the Former USSR Citizens who are Citizens of neither Latvia nor another State of 1995. However, from the point of view of international law, the non-citizens certainly are stateless persons – as international law does not envisage any other categories besides citizens, foreigners, and stateless persons. Latvia’s non-citizens are defined as stateless in a number of documents of the EU and other international organizations. As to the differences in rights between citizens and non-citizens, the latest updated list with comments was prepared by the Latvian Human Rights committee and is available (in Russian) at http://equality.kenga.net/docs/diff_citizens-aliens_with_appendices.pdf.

2. Para.12 [See new paragraph 26]: The statement that the Jewish community is entirely integrated, contrary to the Russian one, could be questioned with good reasons. The criteria for integration used to distinguish between the two are completely unclear, and generally the question is very complicated and sensitive – in particular, taking into account very specific attitude of the Jewish community towards the topical issue of the Latvian SS legion, celebrations of 16 March (“the Legionnaires’ day”) etc. This oversimplification is hardly useful.

3. Para.16 [See new paragraph 30]: “However, in the view of the Russian-speaking political parties...”. In fact, as all surveys reveal, this view is shared by a large majority of both non-citizens and Russian-speaking citizens of Latvia – thus, this is not just an attitude of some politicians.

4. Para.17 [See new paragraph 31]: “The integration policy the Latvian government has been pursuing for the past eleven years...” – in fact, the integration concept was officially adopted only in 1999, before that the official discourse was rather one of “de-colonization”. The very adoption of the citizenship law can hardly be regarded as a sign of the government’s goodwill – it was adopted after lengthy delays under the pressure of the Council of Europe: adoption of this law was an explicit precondition for the accession of Latvia to the Council of Europe, and exactly this delay was the reason why Latvia joined the Council of Europe almost two years later than its neighbours Estonia and Lithuania.

5. Para.18 [See new paragraph 32]: “In the opinion of the NGOs, including those representing the Russian-speaking community, young people are typically not interested in learning Latvian and make no effort even to acquire the rudiments, but at the same time hope for automatic naturalisation in the medium term”.

Probably there is one or two “puppet NGOs” paid by the government whose representatives might tell something like this, but this is factually wrong. Even data mentioned in the draft under consideration refute the assumption that young Russians do not learn Latvian. All surveys reveal that the knowledge of Latvian among young Russian-speakers has improved dramatically, and that about 95-98% of parents consider that knowledge of the Latvian language is important for their children, and encourage them to learn it as well as possible. Moreover, it is simply impossible to graduate from even primary school without passing exams on Latvian every year. In fact, the statement above is nothing more than nationalistic stereotype which is clearly slanderous and insulting for the Russian-speaking community and should not be reproduced in a serious report. In any case, this statement cannot be presented as reflecting the views of even more or less serious part of the Russian-speaking NGOs. The prejudiced points of the kind might seriously undermine the credibility of the whole report.

6. Para.19 [See new paragraph 33]: it is not clear which “*extremist Russian-speaking political parties*” are meant (we do have some small parties of the kind, unfortunately, but meetings with them were not included into the Rapporteur’s programme, as far as I know). Besides, it is not clear what kind of “alarmist

figures” is meant – in fact, these Russian nationalistic parties do not predict any large-scale (re-)emigration to Russia and put forward quite different slogans.

7. Para. 32 [*See new paragraphs 51-52*]: It is not clear what 109 advisory boards are meant. At the national level, the Minority Consultative Council attached to the former President G. Ulmanis was functioning between 1996 and 1998 (I was a member of this council from its first till the last meeting), however, after the election of the current President V.Vike-Freiberga, it was abolished. Two specialised boards currently exist. The first one is on minority education issues at the Ministry of Education. Majority of its members represent the Ministry’ bureaucrats and school administrations, and only minority – relevant NGOs, besides, these NGOs are chosen by the Ministry itself, and often they do not represent the genuine views of the persons and groups affected. Under the previous minister Mrs Druviete, the board was not summoned for more than half a year. Most recent information on the board’s activity is available (in Russian) at <http://www.telegraf.lv/index.php?act=archive&date=20060519&gid=23&id=21974>.

Another board is attached to the Secretariat of the Minister for Special Assignment on the Society Integration. I am not aware of any legal provisions obliging any state body to “consult [the boards] about every draft law concerning minority communities”, nor about any “various projects to strengthen consultation mechanisms and structures further”. I am afraid that this is a clear “export version” intended for foreign visitors and has little to do with real life. I would suggest to consult the presentation on exactly this issue by the former Latvian Minister for Special Assignment on the Society Integration, Dr Nils Muiznieks, delivered at the conference organized by the Romanian presidency of the Council of Europe in Brasov on 6 March, 2006.

8. Para. 33 [*See new paragraph 56*]: *“It has to be recognised that part of the Russian-speaking community in Latvia resists integration”*. This statement has little sense unless it is not explained what is understood as “integration”. Many researchers concluded that the main problem is that the very concept of integration is interpreted in different ways by the government and the Russian-speaking community: while the official policies stress acquisition of the Latvian language, and acceptance of the “official” version of history, citizenship legislation and language policies as the main criteria for integration, the Russian-speakers emphasise that integration is a two-way road, and advocate the need to ensure their effective participation in decision-making, and recognition of and respect to their distinct identity – in particular, by adapting the system of state government to the multicultural and multilingual nature of the Latvia’s society. In other words, the question is whether the respect to cultural diversity and full implementation of minority rights is a part of the integration concept or not. Thus, the statement quoted above is somewhat misleading – it would be better to stress the differences in approaches to the integration concept.

9. Para. 33 and footnote 5 [*See new paragraph 56 and footnote 8*]: the footnote is very essential, indeed. However, the real picture is even more salient. It is worth mentioning that the pre-election programme of the Latvian People’s Front (LPF) in 1990 elections (when, for the last time, all residents were allowed to vote) contained a provision which for any practical reason could not be understood otherwise than “the zero option” (i.e. citizenship for everybody). This was one of the reasons why many Russian-speakers voted for the LPF then, thus ensuring its constitutional majority and the restoration of independence by parliamentary way. Thus, the non-citizens believe, and not without good reasons, that the legislators elected by them simply deprived their own electors of political rights, meanwhile keeping their mandates. Under these circumstances, the word “misunderstanding” hardly reflects the reality, and it is simply not true that “such sentiments are ...without foundation”. As one of the LPF leaders, A. Panteleevs, told in 1994: “We had a choice – either to deceive [the Russian-speakers], or to shoot. We chose deception” (Latvia – whose homeland? Report about the conference organized by the Heinrich Boll Stiftung, Riga: Goete Institute, 1994, in Latvian).

10. Para. 34 [*See new paragraphs 53 and 54*]: 42% is the figure for those ethnic Russians who were registered as citizens since they could trace their roots back to the citizens of the pre-war Latvia, not the number of those arrived after WW2. The figure 6000 for the Russian-speaking associations seems heavily overestimated, usually 2 till 4 hundreds of them formally registered (and several dozens really working) are mentioned.

11. Para. 35 [*See new paragraph 60*]: *“Everyone agreed that the cultural rights of the minorities were respected. The NGOs also agreed that legislation complied with the minimum recommendations made by international organisations (the OSCE and the Council of Europe)”*.

The statement sounds a bit strange – what is meant as “cultural rights”? Is the right to education in mother tongue, or the right to use minority language before public authorities included? And what are these “minimum recommendations”? For example, both OSCE and the Council of Europe for years recommended to grant the voting rights at municipal elections for non-citizens, and this is clearly not implemented.

From some NGO representatives who took part in the meetings with the rapporteur, I heard very different version of what they said. I am afraid that the paragraph will be contested in Latvia on purely factual basis, and thus credibility of the whole report might be questioned.

12. Para. 36 [See new paragraph 62]: I fully agree with the content of this paragraph, this is indeed an accurate observation, and the picture is indeed symmetrical, unfortunately. However, I strongly oppose the use of the word "colonisation" without inverted commas. The term was never used in official texts of any international organization, due to the simple reason: Latvia was annexed in 1940, and this is a different status from the legal point of view; Latvia was never included into the list of colonies and non-self-governed territories compiled by the UN Committee in decolonisation. Thus, Latvia was never recognized as a colony by international organizations, and we need legal accuracy here. If the wording like this is used in the PACE report, this will play into hands of most radical nationalists, who will use it to substantiate the calls for "decolonisation" (i.e. expulsion of the Russian-speakers). This, currently marginal, concept could be substantially strengthened in Latvia if the wording remains as it is. Thus, the impact of the report will appear exactly the opposite to the Rapporteur's intentions.

13. Para. 39 [See new paragraph 65] contains a series of factual mistakes:

"fostering bilingual education" – bilingual education has been introduced **only in minority schools**.

"Pupils in Latvian schools even learn three languages" – Latvian as the only language of instruction and two foreign languages. The same two foreign languages are taught in the minority schools, but besides teaching of increasing number of general subjects is switched to Latvian. Thus, in minority schools pupils learn **four** languages, if the wording of Mrs Druviete is used.

"8 and 6 languages" – in fact, all minority schools (except the Russian and Polish ones) offer education in either Latvian or Russian, with corresponding minority language and culture taught as subjects. Besides, the total share of the pupils of these schools (besides Russian) is less than 0,5%, and only small share of the children belonging to corresponding minorities attend these schools (other opt for either Latvian or Russian minority schools).

"This is the system that obtained before the Second World War" – not true. This system is fundamentally different from the system established by the 1919 Law on Minority Schools Arrangements, which stipulated that every child had the right to receive primary education "in the family language", and that the whole curriculum, except for Latvia's history and geography, was taught in the corresponding minority language.

14. Para. 40 [See new paragraph 68]: even more mistakes.

"It should be recalled that at the beginning of the 1990s Russian was the language of instruction in almost all the country's schools" – not true at all. During the Soviet time, two parallel education systems - from kindergarten till university – existed, in Latvian and in Russian. The number of Latvian-language schools was always much higher than that of the Russian-language schools, particularly because many Latvian schools were located in countryside and were much smaller.

"100% of Latvians spoke Russian but that only 2 to 3% of Russian-speakers spoke Latvian" – according to the last Soviet census (1989) some 23% of ethnic Russians in Latvia claimed fluency in Latvian, and some 70% of ethnic Latvians – fluency in Russian (although the last figure is not completely credible, as many Latvians denied knowledge of Russian as a form of protest). According to that census, 62% of residents had command in Latvian, and 81% - in Russian.

"in 1988 and in 1989 the first Act on languages was passed, requiring Latvian to be taught in schools" – not true. In Soviet time, Latvian was the mandatory subject taught in all Russian-language schools from 2nd till 10th (the last) grade, though quality of teaching was really disastrous. Only children from the families of military servicemen were exempted from the Latvian lessons.

"The same system was introduced in secondary schools in 2004" – not true. The amendments to the Education law adopted in October 1998 stipulated that starting from the 1 September 2004, all secondary education is **only** in the Latvian language. Only several months before the deadline, after large-scale protests and mass street rallies, the provision was changed so that to permit teaching up to 40% of curricula in the minority language.

15. Para. 41 [See new paragraph 68]: Rules for primary and secondary schools are reciprocally confused.

16. Para. 42 [See new [paragraph 72](#)]: Many points are mixed together, and the sense is not clear. Indeed, there are regions in Latvia (in its eastern part, Latgale) traditionally overwhelmingly populated by the Russian-speaking citizens – but it is not clear what “*rationalisation*” might be produced by the reform in this respect. All Polish schools are not private but established and funded by municipalities. Finally, it should be mentioned that the costs of education in private schools is very high (exceeds average salary), thus, given poor economic conditions, this option is available only to a relatively small number of wealthy people.

17. Para. 43 [See new [paragraph 73](#)]: “*The next stage is to extend the bilingual education system used in most schools in Latvia and above all in the “minority” schools, to all Latvian schools*”. As mentioned above, a model of bilingual education questioned by many parents, teachers and experts is used now **only** in minority schools. There is absolutely no legal provisions or concepts to introduce bilingual education also in the Latvian-language schools.

“*Between 50 and 60% of young Latvians at present learn Russian; English is the third language*” – in fact, English is the most frequently chosen first foreign language by ethnic Latvian students. Russian is offered in the Latvian-language schools as **one of the second foreign languages**. Indeed, the number of Latvian students who choose Russian in this capacity is growing.

“*The surveys undertaken by the Education Ministry in 2005 do not, however, show any educational differences between Latvian and Russian schools as regards general subjects*” – the surveys conducted by independent sociologists produce different results. The quality of the Ministry’s surveys are seriously questioned.

18. Para. 44 [See new [paragraphs 74 and 75](#)]: I am afraid that the concerns expressed by the parents have been misunderstood. In fact, there are two separate problems. Indeed, the Ministry of Education required the teachers who were previously teaching their subjects in Russian, to pass the Latvian language tests, some training was provided for this purpose (using almost exclusively the assistance provided by foreign donors). And after having passed these exams, the teachers were demanded to switch teaching of their subjects to Latvian – or to be fired. Many parents observe that even if teachers have successfully passed the exams, their knowledge of Latvian is still much worse than that of Russian, and the quality of teaching seriously deteriorate when the studies are held in the language which is neither teacher’s nor students’ mother tongue. This is particularly true for mathematics and sciences courses. Another problem is even more essential. Despite the law now permits to teach up to 40% of curricula in mother tongue in secondary schools, and even more in primary schools, the **teachers able to teach subjects in minority languages are not trained at all** – all pedagogical education is **only in Latvian** (except for training teachers of Slavonic philology). Thus, even within the limits set by law, the possibility of studying in minority language is **declared but not guaranteed because of total lack of teachers’ training**. In fact, the main concerns of the Russian-speaking parents are about the quality of education. The government tends to disregard these concerns and simply denies existence of serious problems – although the parents clearly see the situation of their own children, are more than anybody else interested in their future, and, after all, have, in a democratic society, a legitimate right to participate in decision-making with respect to the fate of their children. The most frequent claim is that many children are simply unable to master complicated subjects in Latvian, and, as a result, the quality of their knowledge worsens, or they appear simply unable to complete the studies in secondary school. It is revealing that the Ministry does not collect the data about early drop-outs in minority schools after the introduction of the reform.

19. Para. 46 [See new [paragraph 77](#)]: There seems to be an apparent internal contradiction in this paragraph. As stated above in the draft, the ultimate goal of the reform is gradual transition to Latvian as the single language of instruction in all Latvian schools, while keeping Russian as just an additional subject both for its native-speakers (i.e. children belonging to the Russian-speaking minority) and ethnic Latvian children. How can this be interpreted as the way “*maintain [Latvia’s] virtual bilingualism*”?

Two recent examples are illustrative in respect of the language policies. After the recent events in Belarus, the government came out with the proposal to enrol a number of those Belarusian students who were expelled for taking part in anti-Lukashenko rallies, in Latvia’s universities. However, it is appeared impossible, as according to the law teaching in universities must be in Latvian. The Council of Rectors constantly protests against these language restrictions, but these protests are not taken into account (for more details, see in Russian

<http://rus.delfi.lv/archive/article.php?id=14459530&ndate=1147726800&categoryID=57860>).

Another example is the recent rejection by the parliamentary majority of the proposal to use other languages, besides Latvian, in the courses for re-training unemployed people. Indeed, most of the unemployed are people with low level of education, and those of them who belong to the Russian-speaking minority often cannot effectively learn in Latvian, particularly people in pre-pension age. Moreover, this problem is most

typical in Latgale, where absolute majority of customers demand services in Russian. Nevertheless, the proposal was rejected (see in Russian http://www.chasdaily.com/win/payment.html?back=%2Fwin%2F2006%2F05%2F26%2FI_034.html?&id=91198&r=30&xtend=1002).

20. Para. 50 [See new [paragraph 84](#)]: The argument that the Russians do not speak Latvian is not valid, the official figures do not corroborate it. In early 90s, there was a dramatic increase in the command in Latvian – for example, The New Baltic Barometer survey conducted in 1995 revealed that already 62% of ethnic Russians spoke Latvian (R. Rose. New Baltics Barometer II: A Survey Study. Studies in Public Policy No. 251, University of Strathclyde, 1995, p.45). It is hardly probable that since then the knowledge of Latvian has decreased, particularly given the changes in the language and education legislation described above. Naturally, many of elderly Russian-speakers have not mastered Latvian, while among young Russians in Latvia fluency in Latvian is common nowadays.

Questionable statements and premature conclusions

21. Para. 9 [See new [paragraphs 10 and 11](#)]: the figures mentioned are basically true. However, the history of Latvia did not begin in 1935. According to the first census conducted in the Russian empire (1897), ethnic Latvians constituted 68% of the population within the territory on the modern Latvia. In the beginning of 20th century, Lifland and Kurland “gubernijas” had become the most fast economically developing territories of the Tzarist Russia, and the population grew from 1,9 mln in 1897 till 2.55 mln in 1914, both due to high birthrate and immigration from other parts of the empire. On the eve of WWI, the share of ethnic Latvians in the population was estimated as a bit over 60% (see M. Skujenieks. *Latvieši svešumā un citas tautas Latvijā* (Ethnic Latvians abroad and other peoples in Latvia). Rīga, 1930, pp.132-133). Ethnic Latvians dominated in the countryside, while the persons belonging to predominantly Russian, German and Jewish minorities constituted a very substantial share of the urban population. During the WWI, most of urban industry, with its predominantly non-ethnic Latvian workers, was evacuated to inner parts of the Russian empire, and many of them did not return. After the end of WWI, the population of Latvia was only 1,6 mln. According to the first census of the Republic of Latvia (1920), the share of ethnic Latvians reached 73%. After the *coup d'état* in 1934, minority rights envisaged by the most democratic earlier Latvian legislation had been severely curtailed, in particular, a campaign for changing ethnicity records of the persons belonging to minorities to Latvian started. Thus, the figure of 77% in 1935 frequently mentioned by the authorities reflects, in fact, the highest ever share of ethnic Latvians, is not completely accurate and certainly cannot be properly understood outside of broader context very briefly described above.

22. Para. 13 [See new [paragraph 27](#)]. It seems to me that the picture is not full without mentioning that initially naturalization was available for only some selected categories of non-citizens (so called “system of windows” – or quasi-quotas). Elimination of these restrictions was approved by referendum in October 1998, and only since then the naturalization has become an option for the majority of the non-citizens. More information could be taken from the monitoring reports on Latvia (see <http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2FDocuments%2FWorkingDocs%2FDoc01%2FEDOC8924.htm> and <http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2FDocuments%2FWorkingDocs%2FDoc99%2FEDOC8426.htm>).

23. Para. 29 [See new [paragraph 45](#)]: while I fully agree with the main ideas and the gist of this paragraph, the statement that “...*the discontents that [Russian-speaking] community expresses in an imperative, not to say “imperial” tone, sometimes exaggerating the problems it faces, inevitably generate in reaction an ethnic undertone to civil society and ethnic agendas in civic discourse*”. An external reader could conclude that the reluctance to provide the full scope of minority rights to the Russian-speakers is provoked by their own behaviour. However, for the sake of justice, it would be better to clarify that a considerable share of the Russian-speakers supported the struggle for independence, voted in favour of independence at the referendum in March 1991, and – last but not least – that not a single violent attempt to defend their interests have been ever recorded on the part of the Russian-speakers, contrary to many other former Communist countries. It seems that the only “sin” the Russian-speakers could be blamed for is “*the tone*” and “*exaggerating the problems*” – is it indeed a proper reason to deny the full scope of the rights envisaged by the modern European standards to them?

24. Para. 31 [See new [paragraph 47](#)]: the distinction between “integration” and “assimilation” is not quite clear here. What is the difference between assimilation and “*integration based on the Latvian language*”?

25. Para. 54 [See new [paragraph 96](#)]: “*Defending rigid, outdated positions at any price will lead nowhere*” – it would be desirable to specify which particularly positions the rapporteur means. Otherwise the

point looks like empty moralizing and will be perceived as insulting by the whole Russian-speaking community.

26. Para. 57 [*See new paragraph 100*]: the sub-paragraph on equality is not clear. The rapporteur mentioned earlier that the Russian-speakers are heavily underrepresented in the state service – how is this compatible with the claim that the equality is guaranteed? Moreover, it is absolutely not clear what is meant as “the ability to isolate itself within an ethnic group through a distinct identity guaranteed by a form of discrimination that may be positive but is certainly excessive (or even radical) and worrying for the country’s civic project” – I frankly am not aware of any demands for positive discrimination or isolation on the part of the Russian-speakers, and it is difficult for me to understand the point.

The wording like “*the cautious integrationist gradualism of the Latvian government*” could be questioned, but “*imperative segregationist impatience of the Russian community*” causes strong protest. I assume the wording is simply ill-based and offensive. To the best of my knowledge, the demands of the Russian-speaking community (except for some marginal radical nationalists) **do not go beyond the fair implementation of the rights enshrined in the Framework Convention**. Of course, implementation of some provisions can be difficult or even politically impossible under certain historical and political circumstances, but – **should the minority be blamed for demanding these rights?**

Conceptual objections

27. In general, it is apparent that the rapporteur is doing his best to make the report balanced, as much as possible, and to reconcile overly strong political statements made by both the signatories of the report, and the party under consideration.

28. In the meantime, it would be useful, in my humble opinion, to consider the controversial issues related to the status, situation and rights of the Russian-speaking minority in Latvia within the framework of more legal rather than purely political approach. In nature, the draft rather fits the approach typical for the Political Affairs committee rather than the Legal Affairs and Human Rights one.

29. One clear feature of this overly political approach is that too heavy emphasis is made on the role of the kin-state, i.e. Russia, and the problem is considered as primarily the inter-state one. The situation in question is substantially different from minority related controversies in other parts of Europe, e.g. in the Central Europe, and internal problem of the Russian-speaking minority cannot be reduced to the relations between Latvia and Russia. In any case, absolute majority of the Latvia’s Russian-speakers do not identify themselves with Russia politically, and would strongly object the presumption that Russia represents them and speaks on behalf of them. In Russia, the problem of the “compatriots abroad” is rather a domestic policy issue. Thus, in my view, it would be more productive to separate the two aforementioned issues as much as possible.

30. The most salient example of this wrong approach can be seen in the wording of current para. 76 (former para. 45): “*Russian, the language of the economically powerful neighbour*”. In my view, it is important to stress that Russian is, first of all, the language of the biggest traditional minority, the language which was widely used in Latvia for centuries, a part of Latvia’s cultural richness.

31. Another point of the kind is made in para. 37 [*See new paragraph 63*], where “*historical reconciliation between Latvia and Russia*” is mentioned as a major factor. Many people in Latvia, including myself, believe that we in Latvia must be able to resolve our internal problems between the government and the Russian-speaking community regardless of the Russia’s position. The point made by the rapporteur might make us think that the Russia’s government is the proper party to negotiate the situation of the Latvian Russian-speakers with – what we strongly oppose.

32. Another conceptual objection cannot but be raised in respect of the interpretation of the very status of the Russian-speaking minority in Latvia. In para. 34 [*See new paragraph 57*], the rapporteur himself stresses the diversity of the Russian-speaking community. A large part of the community is, in fact, a traditional minority by the most stringent criteria – 42% of ethnic Russians were registered as citizens by birth, what means that their ancestors lived in Latvia before annexation by the Soviet Union and possessed the citizenship of the pre-war Republic of Latvia. Thus, the “old Russians” make up close to 20% of the entire population of Latvia. Slightly more than a half of the Russian-speakers arrived after the WW2, and great majority of these people either were born in Latvia or spent almost all their lives there. Under these circumstances (which are not disputed by anyone) it is difficult to understand how the Russian-speaking community can be dealt with as a community resulting from the Soviet occupation.

33. Use of terms like “*post-imperial minority*” (para. 60 [See new paragraph 102]) is, besides being legally unclear, also hardly productive politically. Indirectly, the term presupposes some sort of collective responsibility for the crimes of the Communist regime, of collective guilt – what is clearly incompatible with the modern legal standards (what the rapporteur himself stresses in the end of para. 27 [See new paragraph 43]). Indeed, it is difficult to understand, particularly for young Russians who grew up in independent Latvia, why they should pay the bills of the Communist regime – particularly while ethnic Latvians, even those of them who occupied high positions in the Communist hierarchy, are considered as just victims. Thus, the report seems to contain certain internal contradictions in this view.

34. Good intentions of the rapporteur are clear. Indeed, the rapporteur demonstrates sincere sympathy and sensitivity towards an extremely complicated situation in Latvia, and is willing to find a proper way of implementing the Council of Europe standards with due respect to historical and political specificity of Latvia.

35. However, if the report is preserved in the current shape, it might appear rather counterproductive. Already at this stage the draft has been widely advertised in the Latvian-language media with the general motto “Finally, the Council of Europe recognized that there are no minority problems in Latvia, everything is fine!”. In the end of the day, the report might encourage most radical nationalists, instead of offering a constructive contribution.

36. This is mainly because of the fact that the position and views of the Russian-speaking community are on many occasions distorted and replaced by nationalistic stereotypes and prejudices, apparently communicated to the rapporteur by other interlocutors. It is impossible to offer reasonable solutions if important facts, as well as the position of one key party is misrepresented.

Some proposals and recommendations

37. In respect of the citizenship problem, it seems reasonable to me to second the position previously expressed on many occasions by the EU, OSCE and also the Council of Europe: namely, that the Latvian government could re-consider its attitude towards the issue of granting permanent resident non-citizens voting rights at municipal elections.

38. In respect of the Russian-speaking minority in general, the key issue, in my view, is abolition of the declarations (in fact, reservations) introduced by Latvia upon ratification of the Framework Convention. The **use of minority languages before public authorities** is the main concern in this respect. Indeed, the language legislation in force defines Russian as just “foreign language” and does not recognize it as the language of by far the biggest traditional minority. The use of minority languages in oral communication with the state and municipal authorities is not guaranteed (the law does not regulate oral communication), but in written communication use of any language but the state one – Latvian – is explicitly prohibited: no submission, complaint, etc. can be accepted from an individual unless it is written in the state language or supplied with the certified translation to the state language. In the meantime, there are regions in Latvia traditionally overwhelmingly inhabited by the Russian-speakers. The Russian-speakers also make up about a half of the population in almost all big cities. In practice, this restriction targets mainly elderly and poor people, whose command in Latvian is not sufficient and who have no money to pay for translation and certification. Their problems usually concern everyday issue: pensions, welfare benefits, communal services, etc., and often the rights guaranteed to them by law are effectively denied because of impossibility to submit an official letter or complaint.

39. In respect of minority education reform, the most urgent problem is the **lack of training of teachers able to teach subjects in minority (first of all, Russian) language**. The state is obliged, in particular, under the Framework Convention, not only to allow certain part of curricula to be taught in minority language but also to ensure all necessary preconditions for it – the training of teachers being the most important of them. At the moment, many Russian-speakers consider this permission as merely declarative and hypocritical – anyway the teaching in Russian will be impossible when current teachers retire, as there are no young teachers to replace them.

I hope that my critical notes and proposals will not be perceived as an attack on the rapporteur, and will help to improve the draft so that it could make a really constructive contribution into the progress of my country.

APPENDIX IV

AS/Jur (2006) 26
29 September 2006

**Comments by the Parliamentary Delegation of Latvia
concerning the Information Memorandum submitted by
Mr Adrian Severin, Rapporteur (document AS/Jur (2006) 14)**

Comments on the restrictions for non-citizens

Latvian legislation allows every non-citizen to become a citizen of Latvia and it is an individual decision whether to do it or not. Latvia has made significant efforts to facilitate the naturalization process, bringing the percentage of non-citizens down to 18% in August 2006 compared to 29% in 1995, when the naturalisation process began. By now, more than 116 000 persons have been granted Latvian citizenship. Latvia continues to encourage non-citizens to apply for citizenship both by adopting legislative measures facilitating naturalisation and by carrying out informative campaigns that have certainly yielded results. Latvia prefers having many citizens with full rights to having non-citizens with many rights, at the same time acknowledging that any restrictions must have strong justification and shall be in accordance with international standards.

The presented list of restrictions on rights and freedoms which are allegedly inaccessible to non-citizens has already been used in past in order to misinform local and international society and therefore is well known to Latvian authorities.

First of all it must be stressed that the presented list gives false impression that there is huge number of restrictions. For example, the list mentions restrictions to hold posts in state and civil service and then multiplies the number of restrictions by mentioning different separate posts in public administration. The truth is that there are only few restrictions to hold posts in public administration and court system and the situation in Latvia in this regard does not differ much from the practice used in other EU countries. Like in any other country there are certain professions and posts, which are available only to citizens of the respective country. Restrictions are mainly based on national security considerations. On the question of the exercise of political rights, our view is that it is the customary practice of States to confine certain political rights to their own citizens. As far as the differences mentioned in connection with some bilateral agreements with other countries are concerned, it must be stressed that in order to successfully conclude an international agreement the text must be acceptable to both sides not only to the Latvian one.

***Comments on Mr Cilevics letter on factual mistakes and inaccuracies
(document AS/Jur (2006) 25)***

Concerning paragraph 1. The Latvian non-citizens cannot be regarded as stateless persons within the meaning of the 1954 Convention on the Status of Stateless Persons. 2. The 1954 Convention on the Status of Stateless Persons generally provides that a Contracting State should accord the stateless persons the same treatment as is accorded to aliens, that is, the scope of rights of stateless persons is very close to the rights of foreigners, whereas pursuant to the effective legislation in Latvia, the scope of rights of Latvian non-citizens is very close to those of Latvian citizens – in most cases they enjoy the same scope of rights as Latvian. The special status of non-citizens is already acknowledged by various international and regional organizations. The United Nations' Human Rights Committee in its concluding observations with regard to Latvia stated¹⁶: "*With regard to the status of non-citizens, the Committee notes the policy of the Government to further social integration through naturalization. ... Non-citizens in the State party, who by law are treated neither as foreigners nor as stateless persons*".

Latvian national legislation makes an explicit distinction between the non-citizens, on the one hand, and stateless persons and aliens, on the other, awarding much higher protection to the former. The Latvian non-citizens are the only group of persons, in addition to citizens, who are granted permanent residence in Latvia *ex lege*. Once a person has lawfully obtained the status of a Latvian non-citizen, she/he can freely reside on a permanent basis in a foreign country retaining also all the rights and privileges of Latvian non-citizen, *inter alia*, to move freely and return back to Latvia at any time. Moreover, non-citizens cannot be expelled save in special cases provided by law and they enjoy the consular protection. In the context of the European Union, Latvian non-citizens are treated as third country citizens, and not stateless persons. Non-citizens have the same social guarantees as Latvian citizens and enjoy most political rights. In fact, the only difference

¹⁶ Concluding observations of the Human Rights Committee: Latvia. 06/11/2003. CCPR/CO/79/LVA. (Concluding Observations/Comments), para. 18.

between Latvian citizens and non-citizens is the right to vote and the right to work in the civil service or occupancy posts that are linked with national security.

Concerning paragraph 4. Integration policy has been a key issue in domestic affairs since Latvia regained independence in 1991. Since citizenship is one of the strongest links between an individual and the state in which he or she lives it is worth mentioning that year 1995 when the naturalization process began may be regarded as a landmark year of integration policy. The National Programme "Integration of Society in Latvia" incorporates the political, judicial, social, educational and cultural dimensions of integration policy, and reaffirms that the integration of society is a government priority. The success of the Latvian integration policy has been recognised by international human rights organisations.

Concerning paragraph 7. Non-governmental organizations, including NGOs representing different minorities, can influence politics at all stages of the policy planning cycle: agenda setting, policy creation, decision-making and implementation.

A big step forward in the co-operation between government and society was made in June 2005, when the **Co-operation Memorandum** between Non-governmental Organizations and the Cabinet of Ministers was signed. This is a completely new form of official dialogue in Latvia. The main objective of the Memorandum is to facilitate the operation of an efficient public administration system meeting the interests of the society by ensuring its involvement in the decision-making process at all levels and stages in public administration. In preparing the text of the Memorandum suggestions from 40 organizations were taken into account. The Memorandum is open for signing by non-governmental organizations twice a year and already has 71 signatory organizations, including several ethnic minority organizations. The Parliament (Saeima) and the non-governmental organisations signed a cooperation declaration on 30 March 2006.

The main mechanisms of involvement of minorities' NGOs in decision-making processes include the following:

- Taking part in **advisory boards**. In total, there are presently 109 advisory boards functioning in Latvia. In national level, the boards of the Secretariat for Integration and Ministry for Education and Science deal with ethnic policy. In last above-mentioned Boards, members of national minorities are officially represented.
- Taking part in **working groups**, for example, the working group for elaborating the Gipsy (Roma) integration programme, called *Roma in Latvia 2007 – 2009* at the Secretariat for Social Integration. This working group was established by order of the Prime Minister. The group consists of all the Roma NGO representatives, the Secretariat for Social Integration officials, experts in the ethno-political and Roma sphere, experts and analysts on human rights protection and others;
- Participating in weekly **meetings of State Secretaries** of ministries. The association of NGOs, also named Civil Alliance, which includes more than 70 national and minorities' organizations, has a representative attending the State Secretaries meeting on a weekly basis. Information regarding draft legislation, projects etc. is disseminated to NGOs via the Civil Alliance. This organization also summarizes and offers its essential experience of communication between state bodies and organizations. It works actively for the simplification of the procedure of financing and application within national and European funds;
- Elaborating **own initiatives**, suggesting draft legal acts;
- Writing letters, **forwarding proposals** to the Prime Minister, State ministries or State Chancellery about amendments of statutory acts and organizing meetings with decision- makers;
- Taking part in **public discussions**, organized by government;
- Participation in **Ministry organized consultations**;
- **Meetings with officials** during reception hours;
- Provision of **opinions on policy documents** or draft legal acts. This option is realized through the form of annotations, which are attached to most draft legal acts,. The non-governmental organizations' opinion is also included;

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- **Delegation** of governmental task implementation to national minorities' NGOs takes place through the conclusion of a co-operation contract and provision of a subsidy. Designing a reference booklet on refugees, organization of public discussion via the Internet, projects such as *The Week Against Racism* and *Latvia-Equal in Diversity* - are good examples of such cooperation.

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The following legislative framework guarantees the opportunities for public participation for persons belonging to minorities on basis of equality with others:

- **The State Administration Structure Law** defines the forms of public participation, the duty of state bodies to integrate society representatives into their work through working groups, consultative boards or through getting their opinion. It defines that in cases of high social importance, public discussion shall be organised;
- **The Public Agency Law** defines the importance and the advisory capacity of consultative board as well as the order of its formation and tasks;
- **The Rules of Procedure of the Cabinet of Ministers** stipulate the order of submitting a draft policy document, a draft legal act or an informative statement for consideration at the meeting of the respective Cabinet Committee or Cabinet sitting. The right of NGOs to take part in the State secretaries' meeting in an advisory capacity is also defined;
- **The Rules for Filling in the Annotations to the Draft Legal Acts.** The purpose of these annotations is to ensure that social, economic and fiscal effects of a forthcoming legal act are duly considered. It is attached to most legal act projects which will have a considerable impact in the above-mentioned areas;
- **The Rules for filling in Chapter VI of the Annotation** state that the Chapter should be filled in cases when advising of public and consultations take place. The interviewed NGOs, criteria for choosing a particular organization to interrogate as well as the ways in which organizations are related to a draft legal act's matter are also discussed. The essence of the NGO proposals on the question is cited, as well as whether those proposals have been taken into account and appropriate amendments made in a draft legal act;
- **The Rules for Submission of Applications, Complaints and Proposals to Public Institutions and Local Governments** state that every natural and legal person has the right to receive an answer from a public institution and local government to his verbal or written submitted complaints, proposals or applications;
- The Cabinet of Ministers functions according to the **Government Declaration** and on the principles of openness. Thus, when drafting a Government Action Plan and particular measures, responsible institutions indicate which other institutions will take part in it. This ensures co-operation with other institutions and non-governmental organizations. The Government Declaration, as well as all the rest of the regulating documents mentioned are available on the Cabinet of Ministers' website.

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Concerning paragraphs 13, 14, 17 and 18

- In Latvia the education system inherited from the Soviet past separated all schools into Latvian and Russian language schools, i.e., the system itself was far from minority school models used in Europe. As de facto the Soviet education system was part of the policy of russification, it did ensure that the Russian school graduates were deprived of adequate knowledge of the Latvian. As a result by early 1990ies only some 20 percent of persons belonging to minorities knew the Latvian language. The minority school graduates had limited opportunities in the higher education and labour market. Furthermore, their possibilities to fully participate in the life of society were limited; for many of them the only source of information could be the Russian language media. The existing system did not grant sufficient level of Latvian for passing the naturalization exams. Over the last ten years there has been a general trend of increasing demand for education in Latvian, with a corresponding decrease in demand for education in Russian. This trend has mainly been due to the willingness by non-Latvian parents to seek an education for their children that guarantees them increased opportunities for university study and greater competitiveness in the labour market. Therefore, the Latvian Government carried out a gradual minority education reform.

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- As the knowledge of Latvian is an indispensable prerequisite for a successful career both in the state and private sectors, the aim of minority education reform is to create an education system able to provide equal opportunities in the labour and education markets for graduates from both Latvian and minority schools.

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- The education reform has been introduced gradually since 1995. From September 2004 the number of subjects taught in Latvian language for the 10th grade students of state and municipal secondary schools has been increased from 3 to 5. The reform is phased in, with grade 11 shifting from 3 to 5 subjects in Latvian in 2005 and grade 12 in 2006. 40% of curricula remain taught in minority language. Commenting on education in Estonia, the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities concluded that the 60/40 model is in line with the Convention.

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- In general, the state support for education in minority languages in Latvia exceeds that of many other European countries. Besides, every educational establishment is entitled to determine by itself, which subjects they teach in Latvian. Primary schools continue studying bilingually. The minority schools receive the greatest state funding *per capita* as compared to the schools of the Latvian language of instruction. The Government will remain engaged to render assistance in case of encountering any adaptation problems.

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- As the minority education reform is the integral element of overall integration policy in Latvia, the Government keeps a close watch to maintenance of the current high quality of teaching after completion of the reform and facilitation of dialogue with the minority groups. It has to be noted that promotion of teaching quality has always been and will be a priority for Ministry of Education and therefore there is no basis to believe that quality of teaching may decrease.

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- Newly established The State Agency for General Education Quality Assessment started its work on 1st September 2005. The Agency was established to introduce a single unified system for evaluating the quality of general education. The three main areas of interest for the Agency are the organisation of the school accreditation process, the training of assessors and experts, and the research and evaluation of quality in educational establishments, including minority schools.

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- Protests staged by a number of organizations and individuals were not aimed at improving education conditions of children but hampering the integration process. The lack of support within society and students became evident in the beginning of September 2004, when widely touted protest activities, including a call for boycotting classes completely failed. 95% of schoolchildren went to schools, which is the usual figure for any beginning of the instruction year.

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- The Government of Latvia has constantly been exerting efforts to promote the dialogue with representatives of national minorities with the aim of improving respective instruction programmes and conducting to the implementation of the reform. There are mechanisms through which directors communicate with teachers, pupils and their parents and accordingly take active part in education reform and in building civic society. There is another important mechanism for dialogue – the Minority Education Advisory Council under the auspices of the Ministry of Education in which participants from minority schools, NGO's, parents' organizations and independent experts take part.

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- The OSCE High Commissioner on National Minorities, Rolf Ekeus, welcomed the reform. Mr Ekeus affirmed during recent visits to Latvia that the reform was in line with international minority rights standards and expressed the belief that increasing the use of Latvian in the classroom is necessary, as Latvian is the official state language. The Commissioner emphasised that not only has Latvia right to introduce the reform, indeed it is her duty to do so. During the visit to Latvia in June of 2005, Mr Ekeus voiced his appreciation for the successful implementation of the reform, and valued positively the free choice given to the schools to determine the subjects, which should be taught in the official language.

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No comments for remaining points, because information is taken from unknown sources and/or expresses Mr Cilevics individual opinion.

APPENDIX V

Dissenting opinion presented by Mrs Circene and Mr Bērziņš, with which Mr Dobelis, Mr Kastēns et Mrs Rugāte (members of the delegation of Latvia) have associated themselves¹⁷

General comments on the report

- The revised draft report of 24th October 2006 surprisingly differs substantially from the previously presented versions and contains some misleading, controversial and sometimes even unacceptable elements. **Formatted:** Indent: Left: 0 cm, Hanging: 1 cm, Bulleted + Level: 1 + Aligned at: 0.63 cm + Tab after: 1.27 cm + Indent at: 1.27 cm, Tabs: Not at 1.27 cm
- It must be stressed that there is no any link between the mainly negative emphasis on situation in Latvia in Preliminary Draft Resolution, ignoring any positive developments, and the text of Explanatory Memorandum, which is much more positive. **Formatted:** Indent: Left: 0 cm, Hanging: 1 cm, Bulleted + Level: 1 + Aligned at: 0.63 cm + Tab after: 1.27 cm + Indent at: 1.27 cm, Tabs: Not at 1.27 cm
- Besides, draft report ignores the history and true process of restoring independence of Latvia. The Republic of Latvia is an example of “state continuity”, but not “state succession”, and thus totally different from, for example, CIS States that emerged after the collapse of the Soviet Union as *new* states. Even before the formal dissolution of the Soviet Union, Latvia restored *de facto* independence of *de jure* existing state, which was recognised as such during the whole 50year long occupation period by more than 50 states of the world. This recognition was confirmed also by the Resolution of the European Parliament of 13 January 1983 and the Resolution of the PACE of 28 January 1987. In the latter, the State continuity of the Baltic States was affirmed particularly on the basis of the presumption that the breach of the peremptory norms of the right to self-determination and the prohibition of the use of force in international law cannot result in the extinction of States. **Formatted:** Indent: Left: 0 cm, Hanging: 1 cm, Bulleted + Level: 1 + Aligned at: 0.63 cm + Tab after: 1.27 cm + Indent at: 1.27 cm, Tabs: Not at 1.27 cm
- Moreover, draft report contains some absolutely wrong and unacceptable allegations like “*Latvia’s return to independence was a political project of the elite*”, which is not simply wrong from historical point of view, but may be even insulting people of Latvia who were courageous enough to demand restoration of independence after 50 years of Soviet occupation and repressions. **Formatted:** Indent: Left: 0 cm, Hanging: 1 cm, Bulleted + Level: 1 + Aligned at: 0.63 cm + Tab after: 1.27 cm + Indent at: 1.27 cm, Tabs: Not at 1.27 cm
- The question of non-citizens status has also been mistakenly interpreted. It must be stressed that non-citizens are not stateless persons; therefore using words “stateless” and “statelessness” in context of non-citizens situation must be avoided. We can quote even Paragraph 18 of Explanatory Memorandum, which clearly says “*Legally, the non-citizens are not stateless persons in the traditional meaning of the term*”. **Formatted:** Indent: Left: 0 cm, Hanging: 1 cm, Bulleted + Level: 1 + Aligned at: 0.63 cm + Tab after: 1.27 cm + Indent at: 1.27 cm, Tabs: Not at 1.27 cm
- In context of citizenship it must be stressed that nationality legislation in Latvia has been adopted with a view to its State continuity and on the basis of recognised rules of humanitarian law prohibiting deportations or dislocation of civilian population in, and out of, the occupied territories. The USSR decree “*On the Order in which Lithuania, Latvia and Estonia Soviet Republic citizens are granted USSR citizenship*” of 7 September 1940 was held to be void *ab initio* and the nationality of the citizens of the Republic of Latvia, as it existed before state’s annexation by the Soviet Union in 1940, was restored. There was no need to determine the nationality again; it was presumed to continue. Moreover, the continuity of nationality as a point of departure in the “*Law on Citizenship*” in Latvia was not objected to also by the international community. Thus, in the Opinion of the PACE on the application by Latvia for membership of the CoE, the reasons for accepting such an approach were explained in the following terms: **Formatted:** Indent: Left: 0 cm, Hanging: 1 cm, Bulleted + Level: 1 + Aligned at: 0.63 cm + Tab after: 1.27 cm + Indent at: 1.27 cm, Tabs: Not at 1.27 cm

“Considering the tremendous hardship which the Latvian population has suffered over the last 50 years because of its annexation by the Soviet Union, and also by its occupation by the Nazis during the second world war, we must recognise that the Latvians have good reasons and the right to protect their own identity as well as they can. Seen in this light we must consider that the new act [the 1994 Citizenship Law] is as generous as it could be and that in due course it will justice to all those whose presence, originally, has been forced upon the Latvian people.”

The same reasons were reiterated also in the report of the Venice Commission “Consequences of state succession for nationality”:

¹⁷ In accordance with Rule 49.4 of the Rules of Procedure of the Assembly.

“67. [...]These three States represent a special case since their claim to be identical with the three Baltic States annexed by the Soviet Union in 1940 was accepted by the international community. After having restored their statehood, the Baltic States based their nationality legislation to a large extent on legislation which had been in force in each of the countries before 1940. The Law on Citizenship of Estonia of 1938 and the Law on Citizenship of Latvia of 1919 have been re-enacted temporarily[...]” “100. [...] The practice adopted by these two countries can be explained by the need to preserve their national identity following more than fifty years of foreign annexation and the resulting massive influx of USSR citizens. It must be born in mind that these States recovered a political and legal identity which had been suppressed during the time of annexation.”

Specific comments on the draft report

1. P.1 Proposal to replace the paragraph with the following wording: *“Latvia has specific demographic features relating to the ethnic make-up of its population. 58.9% of the 2.3 million inhabitants are ethnic Latvians, but the rest of population is constituted of mixture of nationalities, 28,4% of inhabitants being ethnic Russians. Given this multi-ethnic and multi-cultural character of Latvia’s society, the establishment of a cohesive society and reliable civic nation raises various challenges. For that reason, the integration of society has been taking place in close co-operation with international organizations, in particular the Council of Europe which Latvia joined in 1995.”*

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The wording contained in the draft resolution is not acceptable since it expresses political evaluation regarding the implementation of integration policy of Latvia and is not corresponding to the positive evaluation of our integration policy received from different international organizations. Besides, According to official data only 28,4% of population belong to Russian minority and more than half (55%) of them are Latvian citizens. The Government of Latvia is devoting significant efforts in strengthening the identities of all Latvia’s minorities, including those that have suffered most from the policy of russification during the Soviet occupation. While it is a fact that many Belarusians and Ukrainians are de facto *“Russian-speakers”*, one cannot speak of such a group in terms of minority rights as even these russified Ukrainians and Belarusians identify themselves as Ukrainians and Belarusians.

2. P.2. Proposal to replace the first and second sentences with the following wording: *“Less than one-fifth of the resident population, or 405,727 people according to the figures as of 16 August 2006, have neither Latvian nationality nor nationality of any other state, but possess the status of Latvia’s non-citizens.”* and delete word *“stateless”* in the third sentence.

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New proposals reflect most recent statistical data and change the wording in order to reflect correctly internationally recognized conception of *“state continuity”* between the pre-1940 and the 1990 state and not that of *“state succession”*. Given the legal continuity of Latvia as a subject of international law, the citizenship of Latvia was not granted anew, but the status and rights thereof were restored to those persons who were recognized as citizens under the 1919 law *“On Nationality”*, as well as their descendants. Additionally, it must be stressed that non-citizens of Latvia are not stateless persons. This fact has also been recognized by UNHCR in their recent report reflecting statistics on statelessness worldwide. The rights of non-citizens are more extensive than those of stateless persons. Their legal status and rights are established in a special law adopted in 1995. They enjoy the same fundamental human rights as Latvian citizens, except for the right to vote and be elected, they have the same social guarantees, they are entitled to an internationally recognized passport and they enjoy full consular protection when abroad. It also must be noted that the number of non-citizens in Latvia is decreasing at a considerable rate. There are indeed some stateless persons in Latvia whose status is determined by another law. However, their number is very small – 195 persons as of 16 August 2006.

3. P.3. Proposal to replace the paragraph with the following wording: *“This special legal situation stems from the way in which the country regained its independence in 1991, in the context of the dissolution of the former Soviet Union. Latvia, the same as two other Baltic states, represents a special case since its claim to be identical with the state occupied by the Soviet Union in 1940 was accepted by the international community. Accordingly, the conception that was applied was that of “state continuity” between the pre-1940 and the 1990 state and no that of “state succession”. Given the legal continuity of Latvia as a subject of international law, the citizenship of Latvia was not granted anew, but the status and rights thereof were restored to those persons who were recognized as citizens under the 1919 law “On Nationality”, as well as their descendants”.*

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See general comments.

4. P.4. We suggest deleting the following sentence: “*within the frontiers of the Latvian state that has been resuscitated on the basis of political arguments*”.

We would like to advert that continuity of the state is not a political argument, but rather a juridical conception and the international community has acknowledged its attribution to Latvia.

5. P.4. Proposal to delete the following sentence: “*The Parliamentary Assembly considers that it should establish its requirements in respect of Latvia in the light of this specific situation, balancing the full respect for the common European standards with the need for achieving a Latvian coherent and cohesive society and state.*”

The Parliamentary Assembly has already established its requirements in respect of Latvia in 1995 when Latvia applied for membership of Council of Europe. Since Latvia has fulfilled all its commitments and obligations, the Parliamentary Assembly welcomed progress Latvia has made towards honouring its commitments and obligations as a member state since its accession to the Council of Europe and decided to close monitoring in respect of Latvia in 2001 and post-monitoring dialogue with Latvia in 2006.

6. P.5. Proposal to delete Paragraph.

Since the Republic of Latvia is an example of “state continuity”, but not “state succession” this paragraph is not appropriate in the context of draft report. It must be stressed again that Latvia is not the successor state of the USSR.

7. P.6. Proposal to delete Paragraph.

In a Resolution 1236 (2001) on Honouring of obligations and commitments by Latvia Parliamentary Assembly welcomed progress Latvia has made towards honouring its commitments and obligations as a member state of Council of Europe. See previous comments on Paragraph 4.

8. P.9. Proposal to delete phrase “*free of any partisan interest or bias political motivation*”.

European Court for Human Rights and Advisory Committee of the Framework Convention for the Protection of National Minorities are well known for their impartiality and competence. We believe such a language can lead to undermining their credibility.

9. P.11. Proposal to replace the paragraph with the following wording: “*The Assembly welcomes the genuine and constructive efforts made by the Latvian authorities to promote acquisition of citizenship as effectively as possible, by means of both a naturalisation policy and measures to back up this process, such as information and awareness campaigns.*”

Similar wording has been used in previous version of draft report and we think it can be used in the latest version.

10. P.12. Proposal to delete phrase “*the Assembly considers that further improvements are possible so that the unnecessary requirements for the acquisition of Latvian nationality are avoided*”.

We do not understand what is meant by *the unnecessary requirements*, especially taking into account previous sentence, which allows the Assembly to admit that “*the naturalization regulations adopted in Latvia do not raise insuperable obstacles to the acquisition of Latvian nationality and that the procedure applicable does not entail any requirements that are excessive or contrary to the existing European standards*”.

11. P.13. Proposal to add words “*examining the possibility of*” after “*would be*” in second sentence.

The PACE in its Resolution 1459(2005) “Abolition of restrictions on the right to vote” has only asked “the countries concerned” to implement the recommendations by the Council of Europe Commissioner for Human Rights in this respect. Whereas the Commissioner for Human Rights had only recommended the Latvian authorities to “examine the possibility of granting non-citizens the right to vote in local elections” since this issue in all states is of constitutional character, thus being also politically sensitive and controversial.

12. P.15. Proposal to delete Paragraph.

Latvia has already implemented several integration related programmes and continues its successful integration policy. The integration of society has been taking place within the context of successful co-

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operation between Latvia and international human rights organisations. Integration is occurring in a spirit of goodwill and in line with international standards. Latvia has proved that its integration policy is successful - praise of the policy by our international partners serves as an additional proof of this.

13. P.16. Proposal to add the following text *"In its recommendation 1740 (2006) "The place of mother-tongue in school education" the Parliamentary Assembly has stated that "Strong" bilingual educational models which aim to equip the future adult with real bi/plurilingual proficiency have many advantages over "weak" models which treat bilingualism as an intermediate stage between mother-tongue monolingualism and official-language monolingualism rather than as an end in itself. These advantages concern both the people who benefit from such models and the societies that provide them. In all cases, however, the condition for success is that bilingual educational programmes should last several years." Paragraph 24 of the respective report says "As regards Latvia, government funded education is available in eight minority languages. The Latvian authorities' desire that pupils from minority communities should acquire a good command of the official language is legitimate, especially in view of the need for equal opportunities in access to higher education and greater competitiveness on the labour market. But it is no less legitimate for the many minorities who live in Latvia to demand schooling in their mother tongue so that their cultural heritage is preserved. The schooling model here should be a strong one – ie, aiming at bilingualism and balanced command of the two languages. Demands for monolingual schooling in Russian throughout compulsory schooling and attempts to introduce weak or transitional models which would not enable children from the Russian-speaking minority to become genuinely bilingual should both therefore be rejected."*

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14. P.17. Proposal to delete Paragraph.

It is the competence of the Advisory Committee of the Framework Convention for the Protection of National Minorities to evaluate the possibilities of minorities to use their native language in communication with authorities. Besides, Paragraph 9 of this Draft Recommendation clearly says *"It is for the supervision systems of these conventions (The European Convention on Human Rights and the Framework Convention for the Protection of National Minorities) and for the European Court for Human Rights, whenever appropriate, to monitor their implementation and assess their application in Latvia, thus providing the only legitimate international guarantee"*.

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15. P.18.1. We suggest to consider changing the following wording: *"to ratify, as soon as possible, Protocol No 12 to the European Convention on Human Rights"* to *"to consider ratifying Protocol No 12 to the European Convention on Human Rights"*.

Only 14 countries to this date have ratified Protocol No 12 to the European Convention on Human Rights.

16. P.18.2. We suggest to consider changing the following wording: *"to sign and ratify"* to *"to consider signing and ratifying"*.

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17. P.18.3. Proposal to delete phrase *"and consider eventually withdrawing the two declarations recorded in the instrument of ratification, concerning Articles 10.2 and 11 of the Framework Convention"*.

In October Latvia submitted its initial state report on implementation of the Framework Convention for the Protection of National Minorities. The report gives the most updated and comprehensive information on the implementation the Framework Convention, including the implementation of aforementioned articles. Since it is now up to the Advisory Committee to consider the report and adopt an opinion, we believe it is too premature to speak about withdrawing the declarations. Even more, I am afraid that by calling to consider withdrawing the declarations we can unintentionally influence the decision of Advisory Committee although the members of the Committee must be independent and impartial.

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18. P.18.4. Proposal to delete Paragraph.

Latvian anti-discrimination legislation is fully in line with European Union requirements. Latvia has fully implemented EU Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, as well as the EU Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

19. P.18.6. Proposal to replace by the following text: *"to consolidate relations among ethnic communities and intercultural dialogue still further and to carry out more constructive dialogue with NGOs and representative associations"*.

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The information on dialogue with NGOs and representative associations is included in the *Initial Report on the Implementation of the Council of Europe Framework Convention for the Protection of National Minorities by the Republic of Latvia* and now it is competence of the Advisory Committee of the Framework Convention for the Protection of National Minorities to consider it and adopt an opinion.

20. Para.18.7. We suggest to add “successful” after “to continue its”.

Reference to Paragraph 10 of the previous version of the Draft Report (“The Assembly welcomes the genuine and constructive efforts made by the Latvian authorities to promote acquisition of citizenship as effectively as possible, by means of both a naturalisation policy and measures to back up this process, such as information and awareness campaigns. It considers that there are no insuperable obstacles to the acquisition of citizenship of Latvia and that the procedure applicable does not entail any requirements that are excessive or contrary to existing European standards.”)

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21. P.18.8. Proposal to delete Paragraph

Latvian language and history exams have been simplified on several occasions, including the rule that allows applicants who have reached the age of 65 not to take the written part of the language test. However, Latvian legislation does not provide for automatically naturalisation.

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22. P.18.9. Proposal to delete paragraph.

We are not aware of any naturalisation requirements that can undermine the ethnic and cultural dignity of those applying for naturalisation. In the process of naturalisation we have not heard of any complaints that somebody has been asked to express convictions that are contrary to somebody’s reading of the history of his/her community or nation.

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23. P.18.10. Proposal to delete paragraph.

Latvian language and history exams have been simplified on several occasions. Naturalization fee has been reduced for low-income, unemployed, retired and other socially vulnerable categories and even abolished for politically repressed and disabled persons, orphans and persons from social care institutions. We believe that this paragraph should be deleted; especially taking into account that in principle report says that there are no insuperable obstacles to the acquisition of the citizenship of Latvia and that the procedure applicable does not entail any requirements that are excessive or contrary to existing European standards.

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24. P.18.11.1. Proposal to delete paragraph.

See comments on P.17.

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25. P.18.11.2. Proposal to delete paragraph.

The scope of rights of Latvian non-citizens is very close to those of Latvian citizens – in most cases they enjoy the same scope of rights as Latvian citizens – they cannot be expelled save in special cases provided by law, and enjoy the consular protection. The Latvian non-citizens are the only group of persons, in addition to citizens, who are granted permanent residence in Latvia ex lege. Once a person has lawfully obtained the status of Latvian non-citizen, she/he can freely reside on permanent basis in a foreign country retaining also all rights and privileges of Latvian non-citizen, inter alia, to move freely and return back to Latvia at any time. Non-citizens have the same social guarantees as Latvian citizens and enjoy most political rights, The only existing difference between Latvian citizens and non-citizens is the right to vote and the right to work in civil service or occupy posts that are linked with national security, as it is in all other states in spheres linked to national sovereignty and security.

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26. P.18.12. Proposal to delete phrase “to implement the education legislation and consider amending it, whenever necessary, in accordance with the provisions and spirit of the Framework Convention for the Protection of National Minorities”.

See comments on Paragraph 16 and Paragraph 17.

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27. Proposal to replace the paragraph with the following wording: “The Assembly also asks the various Latvian political players to refrain from making speeches based on intolerance, racism or hatred and from

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exploiting inter-community tensions for purely political purposes. It recalls the Resolution 1495 (2006) on Combating the resurgence of the Nazi ideology and Resolution 1481 (2006) on Need for international condemnation of crimes of totalitarian communist regimes and hopes that Latvian authorities will continue to adopt a strict stance with regard to attempts to justify crimes committed in Latvia by Nazi troops and totalitarian Communist regimes.”

Comments on the preliminary draft recommendation

- 1. P.1.1. Proposal to replace “statelessness” with the following wording “number of non-citizens”.

See previous comments regarding the fact that non-citizens are not stateless persons.

- 2. P.1.3. Proposal to delete Paragraph.

Firstly, the issue is within the competence of OSCE and will be discussed by OSCE Parliamentary Assembly. Secondly, we cannot speak about any conclusions, since the final report of the OSCE Election Observation mission has not been made public yet.

- 3. P.1.5. Proposal to delete Paragraph.

It is the competence of Parliamentary Assembly to take a decision regarding possible transmission of any resolution. Besides, we must avoid trying to influence opinion of Advisory Committee since the members of the Committee must be independent and impartial.

- 4. P.1.7. Proposal to add “all” after “to encourage”.

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Reporting committee: Committee on Legal Affairs and Human Rights

Reference to committee: Docs 10481 rev. and 10482, Reference No 3068 of 25 April 2005

Draft resolution and draft recommendation adopted unanimously by the Committee on 6 November 2006

Members of the Committee: Mr Dick **Marty** (Chairperson), Mr Erik **Jurgens**, Mr Adrian **Severin**, Mr György **Frunda** (Vice-Chairpersons), Mrs Birgitta Ahlqvist, Mr Athanasios **Aleavras**, Mr Alexander Arabadjiev, Mr Miguel Arias, Mr Birgir Ármannsson, Mr José Luis **Arnaut**, Mr Abdülkadir **Ateş**, Mr Jaume **Bartumeu Cassany**, Mrs Meritxell Batet, Mrs Soledad **Becerril**, Mrs Marie-Louise **Bemelmans-Vidéc**, Mr Giorgi Bokeria, Mr Erol Aslan **Cebeci**, Mrs Pia Christmas-Møller, Mr Boriss **Cilevičs**, Mrs Herta **Däubler-Gmelin**, Mrs Lydie **Err**, Mr Jan Ertsborn, Mr Václav Exner, Mr Valeriy **Fedorov**, Mr Aniello Formisano (alternate: Mr Andrea **Manzella**), Mr Jean-Charles Gardetto, Mr József Gedei, Mr Stef Goris, Mr Valery **Grebennikov**, Mr Holger **Haibach**, Mrs Gultakin Hajiyeva, Mrs Karin Hakl, Mr Nick Harvey (alternate: Mr Christopher **Chope**), Mr Serhiy **Holovaty**, Mr Michel **Hunault**, Mr Rafael Huseynov, Mrs Fatme Ilyaz, Mr Kastriot Islami, Mr Želiko Ivanji, Mr Sergei Ivanov, Mr Tomáš Jirsa, Mr Antti Kaikkonen, Mr Karol Karski, Mr Hans Kaufmann, Mr András **Kelemen**, Mr Nikolay Kovalev (alternate: Mr Yuri **Sharandin**), Mr Jean-Pierre Kucheida, Mr Eduard **Kukan**, Mrs Darja Lavtižar-Bebler, Mr Andrzej Lepper, Mrs Sabine Leutheusser-Schnarrenberger (alternate: Mr Jürgen **Herrmann**), Mr Tony Lloyd, Mr Humfrey **Malins**, Mr Pietro **Marcenaro**, Mr Alberto Martins, Mr Andrew McIntosh, Mr Murat **Mercan**, Mrs Ilinka Mitreva, Mr Philippe Monfils, Mr Philippe Nachbar, Mr Tomislav Nikolić, Ms Ann Ormonde, Mr Claudio Podeschi, Mr Ivan **Popescu**, Mrs Maria Postoico, Mr Christos Pourgourides, Mr Jeffrey Pullicino Orlando, Mr Valeriy **Pysarenko**, Mr Martin Raguž, Mr François Rochebloine, Mr Francesco Saverio Romano, Mr Armen **Rustamyan**, Mr Michael Spindelegger, Mrs Rodica Mihaela **Stănoiu**, Mr Christoph Strasser, Mr Øyvind **Vaksdal**, Mr Egidijus Vareikis, Mr Miltiadis **Varvitsiotis**, Mrs Renate **Wohlwend**, Mr Marco Zacchera, Mr Krzysztof **Zaremba**, Mr Vladimir Zhirinovskiy (alternate: Mr Alexey **Aleksandrov**), Mr Miomir **Žužul**

N.B.: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the Committee: Mr Drzemczewski, Mr Schirmer, Mrs Maffucci-Hugel, Ms Heurtin

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