



## CLSF Latvijas Cilvēktiesību komiteja FIDH Latvian Human Rights Committee

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#### **Latvia: restrictions on participation in democratic elections**

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In Latvia, in elections to both the local government and the parliament, there are significant restrictions for voters, candidates and already elected deputies. They concern mainly the representatives of the Russian linguistic minority, which makes up 37% of the country's population<sup>1</sup>. Below, we will examine each of these restrictions separately, and also present statistical data on their impact on the representation of national minorities in elected bodies

#### 1. Restrictions for voters.

The right to vote in elections of all levels (including those to the European Parliament) and to vote in referendums is not held by persons having a special status "non-citizen of Latvia", others stateless persons, nor foreign citizens (except citizens of the EU countries). Citizens of EU countries living in Latvia have active and passive suffrage in municipal elections and elections to the European Parliament.

Non-citizens of Latvia are persons who permanently resided in Latvia at the time of separation from the USSR<sup>2</sup> and their descendants. The last time they had the right to vote in a poll (referendum) for Latvia's withdrawal from the USSR was on March 3, 1991. They did not participate in four elections to the European Parliament, five parliamentary elections, seven municipal elections, and eight national referendums<sup>3</sup>.

Non-citizens of Latvia are almost exclusively representatives of national minorities<sup>4</sup>, according to the Population Register on July 1, 2018, they are 228 855; those 10.9% of the population, or 27.4% of the national minorities (together with foreigners, who are overwhelmingly - former non-citizens who took foreign citizenship without leaving Latvia - 38.6%).

The number of non-citizens during the period of naturalization accessibility decreased by 441,600<sup>5</sup>, while only 146,286 people received Latvian citizenship through naturalization. Balance for the last year (from July to July): a decrease in the number of non-citizens - 8,904, naturalized in Latvia - 939 (11% of the decrease); the increase in the number of foreigners - 2,247 (25%).

<sup>1</sup> According to the latest population census (2011), the main language of the family in 62.1% of respondents is the Latvian language, 37.2% - Russian, 0.7% - another language

<sup>2</sup> The law specifies the date for July 1, 1992

<sup>3</sup> A description of these events can be found on the CEC website: <https://www.cvk.lv/pub/public/28334.html>

<sup>4</sup> Here and below are the data of the Population Register as at 01.07.2018 in comparison with the data as of 01.07.2017. There were 538 ethnic Latvians among non-citizens

<sup>5</sup> As of January 1, 1996, according to the CSB data (Table IRG120), there were 670,478 non-citizens in Latvia

Based on UNHCR data<sup>6</sup>, non-citizens of Latvia represent 59%, those of Estonia - another 20% of the total number of stateless persons in the EU despite the population of both countries being about 0.7% of the EU population. Of the more than 80 differences in the rights of citizens and non-citizens of Latvia, in 14 cases (for example, the right to purchase a certain type of land), citizens of other EU countries also have advantages over non-citizens.

In addition to participating in elections, non-citizens also have other restrictions, close to the right to participate in elections: they cannot establish political parties, exceed half of the number of members of a political party, to be members of election commissions, to initiate referenda and to submit to the parliament collective petitions<sup>7</sup>.

The bill on local referendums (currently numbered 76/Lp12) remains under consideration in the Parliament for more than four years. Initially it was numbered 544/Lp11. The bill does not provide for participation of "non-citizens"

The status of a non-citizen is hereditary. On September 21, 2017, the parliament refused even to send to the commissions the initiative of the President (bill No. 1023/Lp12 - voting: "for" -39, "against" -38, "abstained" -14) to automatically recognize as a Latvian citizen newborn children, whose both parents are non-citizens of Latvia.

The government does not react to international recommendations on granting non-citizens the right to vote in municipal elections (including 6 recommendations of the OSCE structures<sup>8</sup>).

## 2. Restrictions for candidates.

There are political restrictions for candidates for municipal and parliamentary elections - for activity in various legal political and public organizations in the period from January to August (in August they were banned by parliament vote) of 1991, who were in the said period in opposition to the ruling Popular Front of Latvia.

In particular, Tatjana Ždanoka, former co-chair of the Latvian Human Rights Committee, current leader of the Latvian Russian Union (LRU) party, who was elected to the European Parliament three times, was struck off the list of candidates for the 1998 and 2018 parliamentary elections.

The 1998 incident was appealed to the ECHR (case No. 58278/00, the Grand Chamber judgment of 16.03.2006). Restrictions were recognized as permissible, but it was noted that "the Latvian parliament must keep the statutory restriction under constant review, with a view to bringing it to an early end" (para. 135).

On the eve of the new parliamentary elections (06.10.2018) Tatjana Ždanoka resigned as a member of the European Parliament (05.03.2018). She also filed a lawsuit in the Constitutional Court of Latvia (case No. 2017-05-01, judgment of 29.06.2018) demanding that the restrictions be reviewed. The court recognized the restrictions to be constitutional. However, it noted that every case of deletion from the list should be considered by the Central Election Commission

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<sup>6</sup> UNHCR Statistical Yearbook 2016, table 7: <http://www.unhcr.org/statistics/country/5a8ee0387/unhcr-statistical-yearbook-2016-16th-edition.html>

<sup>7</sup> See app. 1 to the monograph Vladimir Buzayev, 2013, Legal and social situation of the Russian - speaking minority in Latvia: <http://rusojuz.lv/en/library/14>

<sup>8</sup> OSCE/ODIHR Final report on 2002 parliamentary elections in Latvia, part XI, para. 2; Parliamentary Assembly, July 2004, resolution on national minorities, para. 16; OSCE/ODIHR Final report on 2006 parliamentary elections in Latvia, part XV, para. 2; OSCE/ODIHR Final report on 2010 parliamentary elections in Latvia, part XV, para. 1; High Commissioner on National Minorities, statements to 868th and 1026th plenary meetings of the Permanent Council

(CEC) individually, evaluating if a candidate "threatens Latvia's independence and principles of a democracy under rule of law".

Tatjana Ždanoka was nominated by the leader of one of the five regional lists of the LRU, but was struck off the list by the CEC decision of August 21, 2018. The Administrative Regional Court (case No. A43008018, judgment of 03.09.2018), as the last instance, confirmed this decision.

In connection with the plan of sharp narrowing of the opportunities for obtaining education in Russian, approved by the government in 2017, and then by the parliament (March 2018), the LRU has been conducting mass protests since October 2017. Despite these actions being exclusively peaceful and lawful, the Security Police initiated several criminal cases. Cases have been initiated, including against members of the party's board who later became candidates<sup>9</sup>: Tatjana Ždanoka, Jevgenija Krjukova, Ilja Kozirevs and Viktors Guščins. Members of the party's board (and later candidates) Aleksandrs Livčaks and Andris Tolmačovs were interrogated as witnesses.

Ilja Kozirevs was detained on the street with the use of force 06.08.2018, after approval of the list of candidates, and had been detained for two days. Aleksandrs Gaponenko, a member of the LRU Board, a non-citizen and Speaker of the Parliament of Non-Represented<sup>10</sup>, was in detention for 4 months (from 20.04 to 23.08.2018).

### 3. Restrictions for those elected.

In the early 1990s, the laws on the local and parliamentary elections included a requirement for candidates to submit to the CEC certificate of knowledge of the state language on the highest level. Some candidates who presented such certificates were deleted from the lists of local government elections (Antoņina Ignatāne) and the parliamentary elections (Ingrīda Podklozina) at the request of language inspectors. Their complaints, respectively to the UN Committee on Human Rights (case No. CCPR/C/72/D/884/1999, opinion of 31.07.2001) and ECHR (case No. 46726/99, judgment of 08.02.2001) were successful, and in May 2002, these requirements to candidates were excluded from the laws.

Nevertheless, on 07.07.2009 the government (without the parliament and a month after the municipal elections) has restored the language requirements from members of municipal councils and parliament, respectively, in categories C1 and C2 (the fifth and sixth from below, from six)<sup>11</sup>.

In 2010, amendments to the law on the status of a local councilor<sup>12</sup> were adopted. They have created a possibility to deprive a local councilor of his or her seat for insufficient command of the official language, through a judicial procedure and after they had been given time and municipal assistance to improve Latvian skills. The councilors elected in 2009 had been exempt,

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<sup>9</sup> Disclosure – the signatory of the present report also is a member of the party's board and is included in the list

<sup>10</sup> 15,000 residents of Latvia took part in the election of the Parliament of Non-Represented (May-June 2013). See Elizabete Krivcova, *Latvian Non-Citizens' Congress Riga, Latvia. Russian linguistic minority in Latvia*, p. 11: [http://www.krivcova.lv/images/pdf/pres\\_Russian%20linguistic%20minority%20in%20Latvia.pdf](http://www.krivcova.lv/images/pdf/pres_Russian%20linguistic%20minority%20in%20Latvia.pdf)

<sup>11</sup> Noteikumi par valsts valodas zināšanu apjomu un valsts valodas prasmes pārbaudes kārtību (...). (Regulations Regarding the Amount of the Knowledge of the Official Language and the Procedures for Examination of the Knowledge of the Official Language) (...), *Latvijas Vēstnesis*, 2009, 14. jūlijs, nr. 110

<sup>12</sup> Republikas pilsētas domes un novada domes deputāta statusa likums (Law On the Status of the Deputy of the Republic City Council and County Council), *Latvijas Vēstnesis*, 1994, 30. marts, nr. 39. Section 4. English text at [http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/On\\_the\\_Status\\_of\\_the\\_Deputy\\_of\\_the\\_Republic\\_City\\_Council\\_and\\_County\\_Council.doc](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/On_the_Status_of_the_Deputy_of_the_Republic_City_Council_and_County_Council.doc)

so in practice the new rules came into force after local elections in 2013. Analogous provisions have appeared in the Rules of Procedure of the Saeima (Parliament) in 2013<sup>13</sup>.

In the parliament, this procedure has not yet been applied, and in municipalities, it was first applied for three deputies elected in 2013. Two of them, Jekaterina Šaroka and Ivans Baranovs, were deprived of their seats. The latter filed a complaint with the UN Human Rights Committee (No. 3021/2017, registered on September 14, 2017)<sup>14</sup>, and in June 2017 was again elected to his municipality for the fourth time in a row.

Currently, cases of deprivation of the mandate are ongoing against Ivans Baranovs<sup>15</sup>, as well as against Rihards Eigims<sup>16</sup>, the Mayor of Daugavpils (the second largest city in Latvia, about 80% of whose population are ethnic minorities).

#### 4. Impact of the restrictions on the representation of national minorities in elected bodies

Data on the ethnic composition of the Latvian parliament are available on the CSB website<sup>17</sup>. The number of persons who indicated Latvian ethnicity in the electoral questionnaire in 8 compositions of the parliament (1993-2014) varies from 67 to 88 among 100 MPs, with the share of Latvians among the population ranging from 52% to 62%.

In the last two compositions of the parliament, 18 MPs did not specify their ethnicity. An analysis of the biographies of MPs of the current parliament at the time of the election (November 2014) shows the presence of only 20 MPs belonging to national minorities, including four MPs from the ruling coalition.

The CSB website also contains data on the ethnic composition of municipal councillors (elections of 2001 - 2013)<sup>18</sup>. Since the 2005 elections, the share of candidates and elected councillors who have not indicated their ethnicity is so great that it does not allow evaluating the proportionality of ethnic representation.

From 1618 councillors, elected in 2013, there were 334, who did not indicate their ethnic origin, in 2017 – 207 from 1614. Ethnic origin of each such councillor is estimated by our evaluations of each separate pre-election questionnaire.

The corresponding proportion (Latvians/Non-Latvians) in 2013 was 72.2:27.8, in 2017 – 56.5:43.5.

The proportion among councilors is extended to proportion among candidates.

The proportion of 2013 is extended to the earliest data.

The data processed by LHRC (including the election data for 1997 and 2017) are presented below (table 1).

Table 1

The share of candidates and elected councillors from ethnic minorities in comparison to their share in the population in the period from 1997-2017<sup>19</sup>

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<sup>13</sup> Rules of Procedure of the Saeima. <http://saeima.lv/en/legislation/rules-of-procedure> Section 131.2.

<sup>14</sup> Disclosure – the signatory of the present report is Baranov's representative in this matter

<sup>15</sup> Центр госязыка подаст в суд на депутата Баранова — требует лишить его мандата (The center of state language will sue deputy Baranovs - demands to deprive him of his mandate). rus.DELFI.lv 23 April, 2018: <http://rus.delfi.lv/news/daily/latvia/centr-gosyazyka-podast-v-sud-na-deputata-baranova-trebuat-lishit-ego-mandata.d?id=49962359&all=true>

<sup>16</sup> Центр госязыка обратится в суд с просьбой аннулировать мандат мэра Даугавпилса Эйгимса (The center of state language will address in court with the request to cancel mandate of the mayor of Daugavpils Eigims) rus.DELFI.lv May 3, 2018: <http://rus.delfi.lv/news/daily/latvia/centr-gosyazyka-obratitsya-v-sud-s-prosboj-annulirovat-mandat-mera-daugavpilsa-ejgimsa.d?id=49992247>

<sup>17</sup> Table No PRG01

<sup>18</sup> Table No PRG10

<sup>19</sup> Absolute data on candidates and councillors – CSB data, table PR10; data for 2013-2017 – from the website of the CEC.

Year	candidates	councillors	voters	population
1997	6.0		21.7	43.4
2001	7.9	7.5	23.2	42.1
2005	11.1	9.7	25.4	41.2
2009	12.2	9.3	27.8	40.7
2013	13.7	10.5	27.7	39.5
2017	12.9	9.4	27.2	38.6

This disproportion, according to the results of elections in 2013 and 2017, is observed in all statistical regions (Table 2)<sup>20</sup>.

Table 2

**The share of councilors representing ethnic minorities in statistical regions of Latvia after elections of 2013 and 2017**

Region	Councillors		2013	
	2013	2017	Voters	Population
Biggest cities	30.8	26.2	41.5	56
Latgale	18.2	18.2	36.9	42.2
Vidzeme	6.6	5.8	14.5	22.6
Zemgale	5.6	5.1	14.6	23
Kurzeme	4.5	2.7	6.7	10.7

In 75% of local councils there is, at most, one representative of ethnic minorities elected in 2017, and in 53% of local councils – none, although national minorities are present in all regions. For example, in the city of Ventspils, where among the councillors there is not a single identifiable representative of national minorities, the national minorities make up 42% of the population; in the city of Jelgava, where among the councillors one probably represents national minorities - 40%.

In Riga after elections of 2017, councillors from minorities make up 35%, while minorities' share among citizens in 41.5%, among the population - 56%. In the ruling coalition, on the contrary, out of 32 councilors only 11 can be identified as ethnic Latvians.

## 5 Recommendations for Latvia

1. To grant to all permanent residents - including non-citizens of Latvia, stateless people recognised under 1954 Convention, and citizens of all OSCE participating states - the right to vote in local elections;
2. To grant citizenship, unconditionally and immediately, to all “non-citizens” under age of 18;
3. To simplify and accelerate the naturalization procedure;
4. To repeal the provisions for depriving local councillors and MPs of their mandates for allegedly insufficient command of Latvian language;
5. To adopt without further delay a bill on local referendums, allowing all permanent residents to participate;

<sup>20</sup> Data on 9 larger cities, which are separate municipalities on their own, are put together. Thus, data on the cities in these 4 statistical regions is excluded.

6. To cancel the prohibition for former activists of legal opposition organisations to run for elections.

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