

1 Estonian citizenship: Between ethnic preferences and democratic obligations

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The most important reform in the nationality policy of Estonia after 1945 was the restoration of the pre-1940 nationality in 1992 by reintroducing the 1938 Citizenship Act with slight changes. In 1995, Estonia adopted a new Citizenship Act which did not change the basic principles of the acquisition and loss of Estonian nationality but established more demanding requirements for the acquisition of nationality by naturalisation.

1.1 History of Estonian nationality

1.1.1 Nationality policy since 1945

The Republic of Estonia was established in 1918. In 1940, it was annexed to the Soviet Union as the Estonian Soviet Socialist Republic under threat of military force. As a result, the citizens of the Republic of Estonia were incorporated into the Soviet citizenry. Estonian nationality was replaced by Soviet nationality. Between 1941 and 1944, Estonia was occupied by Nazi Germany. In 1944, Estonia was re-conquered by the Red Army, and Soviet nationality was once again imposed upon the people on its territory. Estonian nationality ceased to exist *de facto*.¹ Instead, the Soviet passports, which were issued in Estonia after the Second World War, included a mandatory line with ethnic identification of the carrier. 'Estonian' became one of such identifications to be used in Soviet internal passports (Soviet passports for travel abroad did not mention ethnicity). In Estonia, as opposed to many internal regions of the USSR, everyone was issued Soviet internal passports upon reaching the age of sixteen. These passports, not valid for travel abroad, gave the holders relative freedom to travel within the Soviet Union. The authorities stamped the carrier's domicile registration (*propiska*) and marital status into the passport.

The Soviet Union sought to merge the different ethnic nations and groups living in the country into a new civic identity – the Soviet people. While the Soviet authorities claimed that such an identity was emerging, and some citizens reported that they already regarded themselves as 'Soviets', the official registration of different ethnic identities

was not discarded. Thus, Estonians had the inscription 'Estonian' in their passports until the dissolution of the Soviet Union,² though, this inscription could not be automatically converted into Estonian nationality after independence. Since 1992, only pre-1940 nationals and their descendants, regardless of their ethnic identification, were entitled to acquire Estonian nationality by registration. Those Estonians who settled in Estonia after 1940 and their descendants (with 'Estonian' in their Soviet passports) could not acquire Estonian nationality by simple registration but had to take the path of naturalisation. At the same time, pre-1940 nationals and their descendants of non-Estonian ethnic origin (with 'Jew', 'Russian', 'Latvian', 'Pole', etc. in their Soviet passports) could acquire Estonian nationality by registration. In new Estonian passports the registration of ethnic identity was dropped.

The debate on nationality between liberal and conservative camps started in Estonia at the end of the 1980s when the national independence movement was gathering momentum. In 1989, the campaign of registering the citizens of the pre-war Republic of Estonia and their descendants was carried out by the Estonian Citizens' Committees, voluntary associations established during the *perestroika* era to sustain the idea of the legal continuity of the pre-war Estonian state. On the positive side, this campaign helped restore the awareness of the link between the individual and the state. At the same time, being led by national conservatives, it firmly introduced the exclusive approach towards Estonian nationality. The conservatives pointed at drastic changes in the ethnic composition of the population of Estonia due to a considerable influx of Russian-speaking immigrants under the Soviet regime. These settlers had pushed the share of non-Estonians in the population up from around 10 per cent in 1940 to unprecedented 38.5 per cent in 1989.

In 1992, the conservatives emerged as winners in the debate on nationality. As a result, the Citizenship Act of 1992 was based on the principle of the restitution of the pre-1940 nationality. Only those who were citizens in 1940 and their descendants (regardless of ethnicity) were granted Estonian nationality by registration, those who settled in Estonia after 1940 were offered the possibility of becoming Estonian nationals through naturalisation. As an immediate consequence of this Act the majority of non-Estonians as well as a small number of Estonians were not granted the right to participate in the national referendum on the country's new Constitution in 1992 and in the first parliamentary elections after independence later the same year. Estonia's new political leadership considered the great number of non-Estonian settlers as a threat to the nation. Under these conditions, nationality became an instrument for the attainment of national homogeneity and for the political containment of Soviet era settlers. The interests of the

Estonian ethnic nation, as then understood, were given priority over full democratic participation.

In Estonia these exclusionary policies enjoyed relatively wide support as a reaction to the changes in the ethnic composition of the population. A survey of public opinion, carried out in the Baltic states in 1993, showed that the principle of limiting nationality to descendants of the pre-1940 citizens was supported by 44 per cent of Estonian, 52 per cent of Latvian and 12 per cent of Lithuanian respondents (Rose & Maley 1994: 31-34). These differences among the Baltic respondents correlated very clearly with the demographics of the respective countries: the bigger the share of non-titular groups in a given state, the stronger the reluctance to let them participate in political life.

The restoration of pre-1940 nationality had profound political consequences. The exclusion of the majority of non-Estonians from the formation of state institutions and from the process of adoption of crucial legal documents, including the Constitution, enabled Estonians to entrench themselves firmly in all the major posts of the state avoiding power-sharing with minorities. During the referendum on independence in Estonia in March 1991 there were 1,144,309 persons with the right to vote. During the referendum on the Estonian Constitution in the summer 1992, after the adoption of the first Citizenship Act, the reported number of eligible voters was 689,319, or only about 60 per cent of the 1991 figure. Consequently, 454,990 adults had been disenfranchised (Semjonov 2000: 15). It was therefore not surprising that the Parliament elected in 1992 was 100 per cent Estonian.

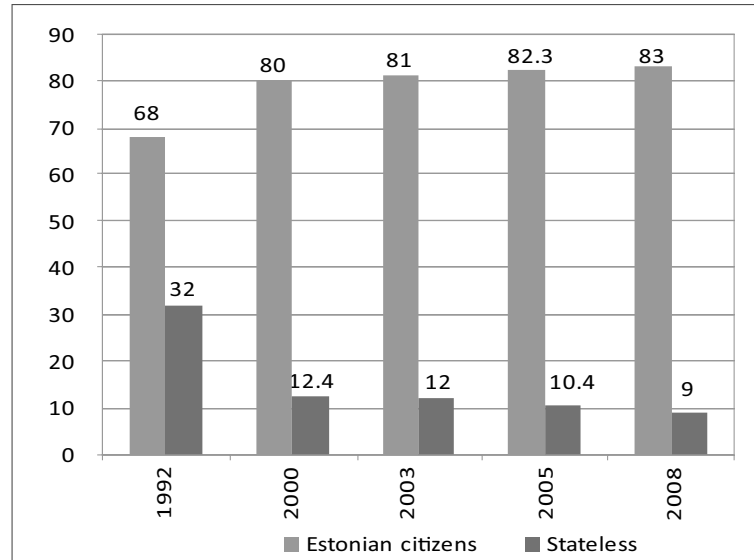
The restoration of pre-1940 nationality caused mass statelessness of non-Estonians, which harmed the relations between different ethnic communities inside Estonia, caused tension in the relations with Russia (the absolute majority of non-citizens were Russians), and evoked criticism, usually disguised as 'recommendations', from prominent international and regional organisations such as the United Nations, the OSCE, the Council of Europe and the European Union.

Between 1992 and 1 January 2008, the share of stateless residents in Estonia declined from 32 to 9 per cent (see Figure 1.1). However, the inability and/or the lack of motivation of older cohorts of non-citizens to master the Estonian language at the necessary level raises doubts of whether the problem of statelessness will be easily overcome in the near future if the conditions of naturalisation remain the same.

1.1.2 *Restoration of Estonian nationality*³

On 26 February 1992, the Supreme Council of the Republic of Estonia put the version of 16 June 1940 of the Citizenship Act of 1938 into force. The main features of this nationality regulation were the *ius san-*

Figure 1.1 *Estonian citizens and stateless persons in Estonia, 1992-1 January 2008, per cent of total population*



Source: Estonian Ministry of the Interior and Statistical Office of Estonia

guinis principle and the avoidance of dual nationality. Pursuant to art. 3 of this Law, every person who possessed or whose parents possessed Estonian nationality before 16 June 1940 – the day of the Soviet ultimatum followed by the annexation of Estonia – had a legal claim to Estonian nationality. About 80,000 non-Estonians thereby acquired Estonian nationality.

Russians and others who came to Estonia after 16 June 1940, all in all almost one third of the entire population in 1992, were automatically excluded from Estonian nationality. In essence, they were mostly immigrant workers but perceived by many as colonial settlers with no right to automatic acquisition of Estonian nationality. The only way for them to acquire Estonian nationality was through naturalisation. As a precondition for naturalisation, the applicant had to have his or her permanent place of residence in the Estonian territory (as proved by *propiska*) for at least two years before and one year after the application date (residence census ‘two plus one’) and had to prove their knowledge of the Estonian language. The earliest date for establishing the permanent place of residence was set at 30 March 1990. The required time period was counted only from that day onwards, so that 30 March 1993 was the earliest date when one could acquire Estonian nationality by naturalisation. Thus, a large part of the population, especially Russians, did not have the right to vote or the right to run for office in the parliamentary election of 20 September 1992 and were therefore excluded from political participation, giving rise to further tensions in a

situation that was already strained. These tensions were somewhat eased by the right of non-citizens to vote at the local elections after 1996.

After some changes in the 1992 Citizenship Act, a new Citizenship Act was passed on 19 January 1995 and entered into force on 1 April 1995.⁴ The new Act integrated all regulations on nationality and introduced some new conditions for naturalisation (residence in Estonia on the basis of a permanent residence permit issued at least five years prior to the date of written application for Estonian nationality and at least one year after the registration of the written application; and a test on the knowledge of the Estonian Constitution and the Citizenship Act).

According to the initial version of the 1995 Citizenship Act, children of stateless parents born in Estonia could not acquire Estonian nationality after birth. This was in violation of the International Covenant of Civil and Political Rights (art. 24(3)) and the Convention on the Rights of the Child (art. 7(1)), both of which Estonia had ratified. These provisions proclaim the right of the child to acquire a nationality. This controversy triggered a heated discussion. Some politicians and lawmakers saw the danger of compromising the governing principle of nationality acquisition (*ius sanguinis*) by adding the *ius soli* principle to it.

After political and academic debates, in which the role of recommendations issued by international actors should not be underestimated, an amendment to the Citizenship Act was finally adopted in December 1998, which entered into force on 12 July 1999. Pursuant to this amendment, children under the age of fifteen born on Estonian territory after 26 February 1992 can acquire the Estonian nationality on the basis of a declaration if their parents are stateless and have been legal residents of Estonia during the previous five years. This new regulation did not include children between the ages of fifteen and eighteen who are under the protection of art. 1 of the Convention on the Rights of the Child and children born before 26 February 1992. Thiele (1999) argues that this domestic regulation was not fully in line with Estonia's international obligations.

Some changes in the legislation on nationality have made the naturalisation process easier for certain groups of applicants. For example, in June 2002, the Estonian Parliament adopted amendments to the Citizenship Act, which created special conditions for acquisition of Estonian nationality through naturalisation by persons with severe or moderate disabilities (such as a visual, hearing or speech impairment). Disabled persons who have appropriate medical certificates are not obliged to pass exams on knowledge of the language or of the Estonian Constitution and the Citizenship Act. There are also other measures being taken to facilitate naturalisation such as free-of-charge language

courses since the beginning of 2009 (financed by the European Commission) and recognition of Estonian language and civics exams taken by students of Russian-language schools as valid for naturalisation.

1.2 Basic principles of the most important current modes of acquisition and loss of nationality

The basic principles of Estonian nationality are stipulated in art. 8 of the Constitution as follows: every child with at least one parent who is an Estonian national shall have the right, by birth, to Estonian nationality; any person who as a minor lost his or her Estonian nationality shall have the right to have his or her nationality restored; no person may be deprived of Estonian nationality acquired by birth; no person may be deprived of Estonian nationality because of his or her beliefs. As further specified by art. 8, the conditions and procedures for the acquisition, loss and restoration of Estonian nationality shall be established by the Citizenship Act. The basic constitutional principles of nationality are reiterated in arts. 5(1), 16(1), 28(3) and 28(2) of the 1995 Citizenship Act respectively.

1.2.1 Acquisition of nationality

Acquisition of Estonian nationality is stipulated by Chapters 2 and 3 (arts. 5 through 15) of the 1995 Citizenship Act. This includes acquisition of nationality by birth, by naturalisation and for achievements of special merit. Nationality by naturalisation and for achievements of special merit shall be granted by a decision of the Estonian government.

According to art. 5, nationality is acquired by birth if at least one of the child's parents holds Estonian nationality at the time of the child's birth. Nationality is also acquired by birth if the child is born after the death of his or her father and if the father held Estonian nationality at the time of his death. If a child of unknown parents is found in Estonia, a court can declare that the child has acquired Estonian nationality by birth upon application by the guardian of the child or a guardianship authority, unless the child is proven to be a citizen of another state. According to art. 5, nobody shall be deprived of Estonian nationality acquired by birth.

Arts. 6 through 15 establish conditions for acquisition of Estonian nationality by naturalisation and for achievements of special merit. The conditions for acquisition of nationality by naturalisation differ depending on whether a person is at least fifteen years of age or under that age.

An alien⁵ who is at least fifteen years of age and wishes to acquire Estonian nationality by naturalisation shall have stayed in Estonia on the basis of a permanent residence permit for at least five years prior to the date on which he or she submits an application for Estonian nationality and for one year from the day following the date of registration of the application. Additionally, he or she must have knowledge of the Estonian language and of the Constitution of the Republic of Estonia and the Citizenship Act. In accordance with the requirements provided for in this Act, he or she must also have a permanent legal income which ensures his or her own subsistence and that of his or her dependants, be loyal to the Estonian state, and take the following oath: 'In applying for Estonian citizenship, I swear to be loyal to the constitutional order of Estonia.'

For a minor to acquire Estonian nationality by naturalisation, an application by his or her parents, or by a single or adoptive parent of Estonian nationality, accompanied by specific documents, is required. After the amendments to the Citizenship Act, which entered into force on 12 July 1999, a minor's stateless parents and stateless single or adoptive parent(s) also have the right to apply for nationality by naturalisation for a minor.

Estonian nationality can be acquired for achievements of special merit to the Estonian state, which are defined as 'achievements which contribute to the international reputation of Estonia in the areas of culture or sports or in other areas' (art. 10). Proposals for the granting of nationality for achievements of special merit may be submitted by members of the Estonian government. The government is required to approve the granting of citizenship for achievements of special merit. According to the amendment which entered into force in November 1995 (seven months after the Citizenship Act entered into force), Estonian nationality for achievements of special merit may be granted to not more than ten persons per year.

However, in some cases, naturalisation is ruled out. According to art. 21 of the 1995 Citizenship Act, Estonian nationality shall not be granted to or resumed by a person who:

1. submits false information upon application for Estonian nationality;
2. does not observe the constitutional order and laws of Estonia;
3. has acted against the Estonian state and its security;
4. has committed a criminal offence for which a punishment of imprisonment of more than one year was imposed and whose criminal record has not expired or who has been repeatedly punished under criminal procedure for intentionally committed criminal offences;
5. has been employed or is currently employed by foreign intelligence or security services;

6. has served as a professional member of the armed forces of a foreign state or who has been assigned to the reserve forces thereof or has retired there from, nor shall Estonian nationality be granted to or resumed by the spouse of such a person.

Thus, art. 21(6) clearly targets those non-Estonians (together with their spouses) who are not Estonian nationals by birth and who remained in Estonia after they retired from the Soviet Army.⁶ However, the same art. 21 also offers them one possibility of acquiring Estonian nationality. It stipulates that Estonian nationality may be resumed by, or granted to, a person who has retired from the armed forces of a foreign state if the person has been married for at least five years to a person who acquired Estonian nationality by birth and if the marriage has not been terminated by divorce.

1.2.2 *Loss of nationality*

Conditions and procedures for loss of Estonian nationality are stipulated in Chapter 6 of the 1995 Citizenship Act (arts. 22 through 30). According to these stipulations, a person shall cease to be an Estonian national 1) through release from Estonian nationality; 2) through deprivation of Estonian nationality, and 3) upon acceptance of the citizenship of another state.

A person who wishes to be released from Estonian nationality shall submit an application, identification documents, a certificate which proves that he or she has acquired the citizenship of another state or will acquire the citizenship of another state in connection with his or her release from Estonian nationality, and pay the state fee.⁷ According to art. 26, release from Estonian nationality may be refused to a person if: 1) the person would become stateless as a result; 2) he or she has unfulfilled obligations towards the Estonian state; 3) he or she is in active service in the Estonian Defence Forces. Decisions on release from Estonian nationality shall be taken by the government.

According to art. 28, a person shall be deprived of Estonian nationality by an order of the Estonian Government if he or she 1) as an Estonian national, enters state public service or military service of a foreign state without permission from the Estonian Government; 2) joins the intelligence or security service of a foreign state or foreign organisation which is armed or militarily organised or which engages in military exercises; 3) forcibly attempts to change the constitutional order of Estonia; 4) upon the acquisition of Estonian nationality by naturalisation or upon resumption of Estonian nationality submits false information and thereby conceals facts which would have precluded the granting of Estonian nationality to him or her or which

would have precluded him or her from resuming Estonian nationality; 5) is a citizen of another state but has not been released from Estonian nationality. This latter provision makes it possible to deprive naturalised dual citizens of their Estonian nationality if they have acquired another nationality. Since Estonian law is in principle opposed to dual nationality, such persons are obliged to apply for release from their Estonian nationality.

Art. 28(3) establishes an important difference between nationals by birth and by naturalisation. It stipulates that the reasons for deprivation of nationality listed in art. 28 do not apply to persons who acquire Estonian nationality by birth. It means that those who have acquired nationality by naturalisation are vulnerable – they can be deprived of their newly obtained nationality.

Art. 29 addresses the loss of Estonian nationality upon acceptance of citizenship of another state or renunciation of Estonian nationality. It stipulates that a person is deemed by the government agency authorised by the Estonian Government to have ceased being an Estonian citizen upon acceptance of the citizenship of another state or upon renunciation of Estonian nationality in favour of the citizenship of another state. Nevertheless, in light of these stipulations, it remains unclear what happens if an Estonian national by birth does not declare his or her wish to be released from Estonian nationality after he or she has acquired, or is going to acquire another nationality. While the 1995 Citizenship Act rules out multiple nationality (arts. 2 and 3) the state has been quite tolerant in cases of the resumption of Estonian nationality by emigrants under art. 16(1) which grants everyone who loses Estonian nationality as a minor the right to resume Estonian nationality. Several such Estonians holding multiple nationalities have been members of the Estonian Government and elected to Parliament.

1.3 Current debates on nationality

1.3.1 The focus of the debate

From the very outset of Estonian nationality policy in 1992, the approaches of Estonians and Russian-speakers to the issue of nationality have been almost diametrically opposed to each other. The approach characteristic of the Estonians draws heavily on history and underlines that the changes in the ethnic composition during the Soviet years, when the share of Estonians fell from 90 per cent to almost 60 per cent between 1940 and 1989, were dangerous for the survival of the Estonian nation. Therefore, refusal to grant nationality to Soviet-era settlers by registration was regarded by many Estonians as an adequate re-

action to these changes in the population. The Estonian side also argues that in comparison with the citizenship laws of other countries the Estonian requirements for nationality are quite liberal by current international standards.

The opposite approach, taken by the Russian-speaking minorities and by several international actors, maintains that history and nation do not matter as much as the Estonians think they do. Rather, one should start with the present multi-ethnic situation and think about individuals. As a characteristic example of this view, Helsinki Watch pointed out that it 'rejects the argument that all those who came to Estonia after 1940 did so illegally and therefore were never citizens. Their residency was legally established under the applicable law at the time they entered the territory of Estonia. Those who settled in Estonia after 1940 must be treated as individuals, not as instruments of state policy, however reprehensible that policy may have been' (Helsinki Watch 1993: 14).

According to the proponents of this view, stateless people are a security risk, since the interests of these individuals are not properly represented at the state level, and their behaviour can be unpredictable. The underlying implication of this argument is usually that Estonia should grant nationality more generously by further simplifying its conditions for naturalisation, especially the language requirements. Most of the ensuing debate has been about the political acceptability of such simplifications, and in most cases the Estonian legislators have rejected the proposals to that end. After more than fifteen years of debates, the opposition between the two approaches has somewhat softened but is still far from having disappeared. As long as there remain many tens of thousands of stateless persons, the debate will probably continue.

1.3.2 *International debate*

Estonia was regularly encouraged by international actors to speed up naturalisation to reduce the proportion of non-citizens in the population, especially during the country's accession to the European Union. Estonia had to discuss its nationality issues with international partners and to even make changes in its Citizenship Act to bring it into alignment with the country's international obligations and to promote naturalisation. Several international and regional organisations, foreign embassies in Estonia, and international NGOs not only participated in the debate but also provided necessary know-how and financial assistance to their Estonian interlocutors. However, under the conditions set by the 1995 Citizenship Act naturalisation slowed down for several years. In 1997, international partners persuaded the Estonian authori-

ties to launch a policy of integration for non-Estonians. A special government agency (Bureau of the Minister of Population Affairs⁸) and a special foundation for the integration of non-Estonians⁹ were established, which started to work out and to implement integration programmes and action plans to resolve the problem of statelessness.¹⁰

After several years of modest yields, the numbers of naturalised citizens briefly surged after Estonia joined the EU in 2004. Estonia interpreted the admission to the EU as the ultimate international approval of its nationality policies. The EU and other international actors virtually stopped issuing recommendations on how Estonia should develop its nationality policy. Only Russia has not dropped the problem of statelessness in Estonia from its political agenda. It remains to be seen to what degree Russia can internationalise this issue in its contacts with the EU, in the framework of the OSCE and in the Council of Europe.

In the wake of Estonia's admission to the EU, inputs from international actors have ceased to inform the domestic debate on nationality issues. Since then, this debate has been shaped more than ever before by internal incentives.

1.3.3 *Domestic debate*

Estonian policy on nationality has remained conservative ever since independence, without major 'home-made' debates after the Citizenship Act of 1992 was adopted. Instead, the mainstream political parties have regularly declared prior to national elections that, regardless of the election results, the Citizenship Act and the corresponding policies will not be changed.

The Estonian political elite deemed that the initial non-inclusion of Soviet-era settlers into the citizenry served the interests of the survival of the Estonian ethnic nation and its culture. According to a statement by a former Estonian minister, the ultimate hope for the future of the non-Estonians was 'that a third or so will become Estonian citizens, a third may remain here with Russian citizenship, and at least a third will leave' (Lieven 1993: 377). By 2000, these hopes had only partially materialised, mainly because the formation of a persistent contingent of stateless residents had not been anticipated. The results of the population censuses of 1989 and 2000 showed that 29 per cent of non-Estonians from 1989 had become Estonian citizens by 2000 and 14 per cent had obtained Russian citizenship, while the total number of non-Estonians had decreased from 602,381 to 439,833, or by 27 per cent between the two censuses.¹¹ In 2000, 173,539 non-Estonians, or 39 per cent of their number in 2000, were Estonian citizens, 86,067 non-Estonians, or 20 per cent, were Russian citizens and 170,349 non-Esto-

nians, or 39 per cent, were stateless residents (Statistical Office of Estonia 2001: 13-14). By the end of 2007, the number of stateless residents had fallen to 116,248, which was 19 per cent of the number of non-Estonians in 1989 and 26 per cent of their number in 2000.¹²

In 1995, minority members won six seats of the 101 in the Estonian Parliament, for the first time since independence, as representatives of the so-called Russian parties (minority parties). They organised a separate faction which tried to initiate changes in the Citizenship Act in order to make the acquisition of nationality easier for stateless Russian-speakers. However, all those attempts were systematically aborted by firm resistance from the Estonian majority in the Parliament. As a result, the minority parties were compromised in the eyes of Russian-speaking voters and during the 2002 national elections these parties were unable to surpass the 5 per cent threshold to get into the Parliament. In 2002, nine and in 2007 eight candidates of minority origin were elected to the Estonian Parliament on the lists of the so-called Estonian parties, which have started to compete among themselves for the votes of naturalised non-Estonians. As members of mainstream parties, minority MPs hope to be more successful than before in defending the interests of non-Estonians, by promoting naturalisation, minority education and the public use of minority languages.

1.3.4 *Changes in public opinion*

Many Estonians, influenced by history, came to perceive Russia and Russians as threats. Surveys of public opinion and sociological research of the early 1990s showed that Estonians tended to support the official nationality policies which sought to control the participation of Russians in Estonian politics with the help of the Citizenship Act. Approximately one fifth of Estonians thought that the official policies, including the language requirements for obtaining nationality were not harsh enough. In 2000, 46 per cent of Estonians believed that Estonia would benefit if non-Estonians left the country (Kruusvall 2001).

The majority of Russian-speakers in Estonia have considered the official policies on nationality, let alone the more radical views reflected in various media outlets, internet chat-rooms and elsewhere, as unfair and discriminatory. Nevertheless, the data from integration monitoring in 2000 showed that non-Estonians were predominantly oriented towards acquiring Estonian nationality: it was desired by 80 per cent of the family members of Estonian citizens who were without nationality, by 62 per cent of the family members of non-citizens, and by 61 per cent of the family members of Russian citizens. Estonian nationality was desired in the first place for children, but also for spouses and parents. At the same time, 12 per cent of the family members of non-citi-

zens did not want citizenship, and 16 per cent had not made up their minds. It might well be that a certain number of non-citizens had resigned themselves to their status and did not see any particular reason (or possibility) to change it (Hallik 2001).

While the official Estonian view on nationality has remained basically the same since 1992, the public opinion of Estonians has changed due to an increase in overall tolerance and the proliferation of related values. Most remarkably, the integration monitoring of 2005 showed that already as much as 54 per cent of Estonians have agreed to grant nationality to Russians born in Estonia on simplified terms. Only about one third of Estonians held this view in 2000 (37 per cent in 2002).¹³ Thus, by 2005, the majority of Estonians no longer perceived the Russians as a grave threat. Moreover, ordinary Estonians were more tolerant with regard to nationality issues than official policies. These changes in public opinion might have facilitated new policy initiatives to overcome the problem of statelessness. However, in 2007, the situation took a different turn.

On 27 April 2007, just two weeks before the Russians traditionally celebrate the anniversary of the defeat of Nazi Germany, the Estonian government clumsily relocated a Soviet-era war memorial from the centre of Tallinn, provoking street riots by mostly Russian-speaking youths who felt insulted. Approximately 1,200 people were arrested, while many were injured and one Russian citizen was stabbed to death. Attitudes of the Estonians and the Russian speakers towards each other hardened and various integration efforts seemed to be severely compromised. The riots and their aftermath, such as the siege of the Estonian Embassy in Moscow by a youth organisation, drew broad international attention.

In March 2008, the Russian Embassy in Tallinn reported a doubling in the number of applicants for Russian citizenship between August 2007 and March 2008 compared with the same periods in 2006 and 2007. According to embassy officials, many applicants noted that they had 'lost confidence in Estonian democracy'. The applicants were also motivated by the opportunities of visa-free travel and of finding jobs in both the Schengen area and Russia.¹⁴ This change in non-Estonians' attitudes had already been detected by a July 2007 Estonian survey, which showed that after the relocation of the war memorial, the trust that non-Estonians had in Estonian state institutions had fallen to 24 per cent (among non-Estonian youths to 11 per cent; while among Estonians it remained as high as 62 per cent). This is in sharp contrast with figures from 2005, when trust in Estonian institutions among non-Estonians was similar to that of Estonians (Heidmets 2008: 59). Given these changes, the numbers of stateless residents in Estonia may continue to decline, as it is predicted, but it is hard to see how in-

creasing numbers opting for Russian nationality can be perceived as in Estonia's best interests, particularly in light of the August 2008 armed conflict in Georgia.

1.4 Statistics on acquisition of nationality since 1992

Estonian statistics on acquisition of nationality date from after the 1992 Citizenship Act was adopted. The introduction of this Act granted Estonian nationality by registration to 68 per cent of the population who, or whose predecessors, were Estonian nationals before 17 June 1940. The rest of the population (32 per cent) who, or whose predecessors, were *not* Estonian nationals before that date, were given the status of aliens. Over 95 per cent of those aliens were not of Estonian descent.

In 1993, after several reorganisations at governmental level, the Estonian Citizenship and Migration Board (CMB) was established.¹⁵ The CMB is a government agency acting within the administrative area of the Ministry of Internal Affairs and its main tasks include: determining the status of persons living in Estonia either as Estonian citizens or as aliens and issuing identity documents to the residents of Estonia, as well as receiving and processing applications for acquiring and restoring Estonian nationality, as well as for exemptions from Estonian nationality, and preparing the respective material for the government of the Republic to decide on these applications (CMB 2003: 4).

Currently, the CMB provides the most reliable statistics on nationality and naturalisation in Estonia. According to these data, between 1992 and 2005 as many as 138,246 persons acquired Estonian nationality via naturalisation (CMB 2006: 19).¹⁶ Two special categories of applicants account for more than one-third of that number. Between 1992 and 1995, a simplified fast-track procedure for naturalisation without a language exam was available for those aliens (Soviet-era settlers) who had participated in the elections of the Estonian Citizens' Congress in 1990 and had registered as applicants for nationality prior to March 1990 (of those, 24,102 were naturalised), as well as for Estonians living outside Estonia, of whom 25,293 used this simplified procedure (CMB 2006: 20).

Besides those two special categories, the CMB has provided statistics on the following categories of persons naturalised between 1992 and 2005:

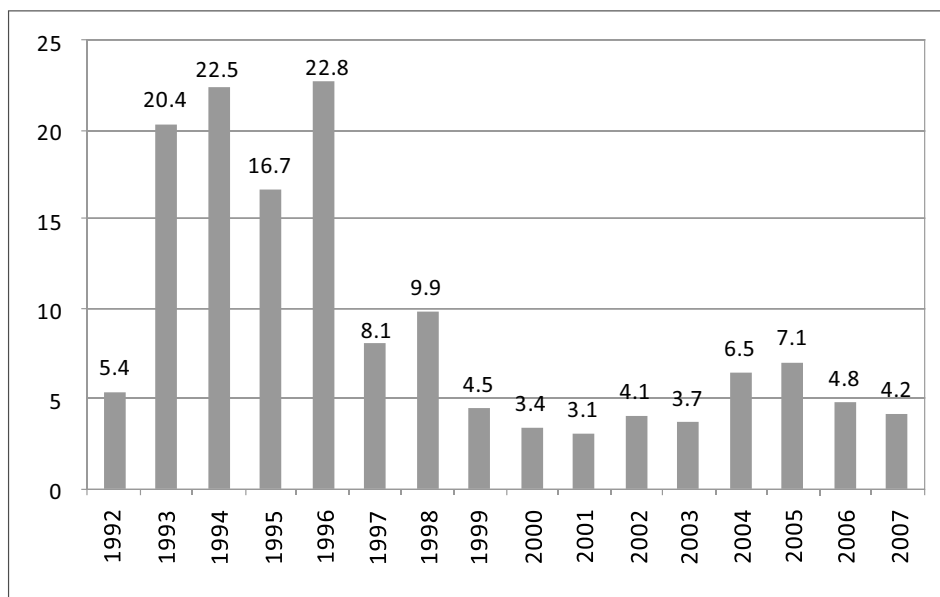
1. those who acquired Estonian nationality based on general conditions, i.e. who passed all of the exams (58,016 persons);
2. minors under fifteen years of age (29,461);
3. those without active legal capacity and the disabled (648);
4. those granted nationality for achievements of special merit (726).

Moreover, 2,679 persons lost their Estonian nationality, while the government also refused to grant nationality to 605 applicants during this same period (CMB 2006: 20).

The process of naturalisation has not been a homogeneous flow of applications and their approval. After the Citizenship Act of 1992, the tempo of naturalisation was much higher than in the wake of the 1995 Citizenship Act, which changed the conditions of naturalisation by making the language exam more rigorous and by adding an exam on the Constitution and the Citizenship Act which also had to be taken in the Estonian language. Thus, between 1992 and 1996, as many as 87,712 persons naturalised under the conditions set by the first Citizenship Act, or 60 per cent of all persons who have naturalised between 1992 and 2007 (see Figure 1.2). In 1996, 16,740 persons passed the citizenship language exam, which followed the old rules and requirements. In 1997, only 2,099 persons passed an upgraded language exam (UNDP 1999: 42).

However, in spite of the complications related to naturalisation, such as language exams which are considered difficult by the applicants, and the growing share of non-Estonians among the citizens, who are eyed with suspicion by ethnic conservatives, no political force in Estonia has proposed stopping the process. As a result, in November 2005, the overall number of naturalised persons (137,199) finally surpassed the number of stateless persons (136,533).¹⁷

Figure 1.2 *Naturalisation in Estonia, 1992-2007, persons naturalised per year in thousands*



Source: Estonian Citizenship and Migration Board

1.5 Conclusions

The current naturalisation process in Estonia is a politically sensitive and cautious inclusion of non-citizens in which international 'supportive pressure' has played an important role. Naturalisation has brought new members to Estonian citizenry, made it ethnically more diverse and moved the country closer to full democratic participation. It is estimated that about 20 per cent of all Estonian nationals are non-Estonians. More than half of them acquired nationality after 1992 through naturalisation. However, 116,000 permanent residents of Estonia still had no nationality by the end of 2007. This means that sustained practical efforts to promote integration and naturalisation are still needed in Estonian society for years to come. Both non-Estonians and Estonians should be targeted in order to promote better mutual understanding and cultural accommodation. Further attempts at prudent statesmanship are required to reduce the negative effects of the events of April 2007 and to restore the image of Estonian nationality in the Russian-speaking community.

Steps should also be taken in developing legal instruments and standards concerning nationality and statelessness. While Estonia has signed and ratified the majority of international instruments aimed at combating racial and ethnic discrimination,¹⁸ it has so far failed to sign and ratify a number of international treaties dealing with issues of nationality and statelessness such as the UN Convention of the Status of Stateless Persons (1954); the UN Convention on the Nationality of Married Women (1957); the UN Convention on the Reduction of Statelessness (1961); the Convention of the International Commission of Civil Status to Reduce the Number of Cases of Statelessness (1973); and the European Convention on Nationality (1997).

One is inclined to hope that membership in the EU and the proliferation of democratic values will motivate Estonia to sign and ratify more international treaties in the near future to help overcome statelessness and promote the political participation of minorities through citizenship.

Chronological list of citizenship-related legislation in Estonia

Date	Document	Content	Source
1992	Constitution of Estonia		www.legislationline.org ; www.legaltext.ee (in Estonian)
1992	Citizenship Act		www.legaltext.ee (in Estonian)

Date	Document	Content	Source
1993	Aliens Act (consolidated in 2003)	Regulates the entry of aliens into Estonia, their stay, residence and employment in Estonia and the bases for legal liability of aliens	www.legislationline.org; www.legaltext.ee (in Estonian)
1995	Citizenship Act (adopted 19 January 1995, entered into force 1 April 1995)	Replaces the Citizenship Act of 1992; does not change the basic principles of acquisition and loss of nationality but establishes more demanding requirements for the acquisition of nationality by naturalisation	www.legislationline.org; www.legaltext.ee (in Estonian)
1995	Citizenship Act Amendment Act of 18 October 1995 (entered into force 20 November 1995)	Establishes that citizenship for achievements of special merit may be granted to no more than ten persons per year	www.legislationline.org; www.legaltext.ee (in Estonian)
1995	Language Act	Establishes the Estonian language as the only official language of Estonia; regulates the requirements for proficiency in the Estonian language and the use of Estonian and foreign languages in Estonia	www.coe.int; www.legaltext.ee (in Estonian)
1997	Aliens Act Amendment Act	Establishes new conditions for issuing permanent residence permits (at least three years residence within the last five years on the basis of a temporary residence permit)	www.legislationline.org; www.legaltext.ee (in Estonian)
1998	Citizenship Act Amendment Act of 8 December 1998 (entered into force 12 July 1999)	Provides for acquisition of citizenship for children of stateless single or adoptive parents; introduces deprivation of citizenship in case of submission of false information in the process of application and loss of citizenship upon acceptance of the citizenship of another state	ww.legislationline.org; www.legaltext.ee (in Estonian)
1999	Identity Documents Act	Establishes an identity document requirement and regulates the issue of	www.legislationline.org; www.legaltext.ee (in Estonian)

Date	Document	Content	Source
		identity documents to Estonian citizens and aliens by the Republic of Estonia	
2000	Citizenship Act Amendment Act of 14 June 2000 (entered into force 10 July 2000)	Amends the requirements for naturalisation for a person with a severe, profound or moderate disability	www.legislationline.org; www.legaltext.ee (in Estonian)
2001	Penal Code Article 174	Establishes penalties for the alteration of a child's descent by substituting a child with a child of another person for personal gain, or if causing alteration of the child's citizenship	www.legislationline.org; www.legaltext.ee (in Estonian)
2001	Citizenship Act Amendment Act of 14 November 2001 (entered into force 1 February 2002)	Revises the wording of some articles as a result of changes in other civil laws	www.legislationline.org; www.legaltext.ee (in Estonian)
2002	Citizenship Act Amendment Act of 5 June 2002 (entered into force 1 July 2002)	Specifies rules for the naturalisation of children whose parents are dead, missing or have restricted active legal capacity or whose parents are deprived of their parental rights	www.legislationline.org; www.legaltext.ee (in Estonian)
2002	Citizenship Act Amendment Act of 19 June 2002 (entered into force 1 August 2002)	Rules that the government of the Republic shall substantiate the granting of citizenship for achievements of special merit (but not the refusal to grant citizenship on these grounds); regulates the fees for the acquisition of citizenship by naturalisation, for resumption of and for release from citizenship	www.legislationline.org; www.legaltext.ee (in Estonian)
2002	Citizenship Act Amendment Act of 15 October 2002 (entered into force 10 November 2002)	Regulates the naturalisation of persons with a severe, profound or moderate disability	www.legislationline.org; www.legaltext.ee (in Estonian)
2003	Citizenship Act Amendment Act of 29 January 2003 (entered into force 1 March 2003)	Regulates the procedures for acquisition of citizenship for adopted children	www.legislationline.org; www.legaltext.ee (in Estonian)

Date	Document	Content	Source
2003	Citizenship Act Amendment Act of 10 December 2003 (entered into force 1 January 2004)	Establishes the procedures for reimbursement of language training expenses to persons who passed the citizenship exams	www.legislationline.org; www.legaltext.ee (in Estonian)
2004	Citizenship Act Amendment Act of 11 February 2004 (entered into force 20 March 2004)	Specifies residence periods required for naturalisation (five years on the basis of a permanent residence permit prior to application and six months from the day following the date of registration of the application); establishes time limits and obligations for the applicants and authorities in processing applications	www.legislationline.org; www.legaltext.ee (in Estonian)
2004	Citizenship Act Amendment Act of 23 November 2004 (entered into force on 1 April 2005)	Specifies conditions for disabled applicants at the naturalisation exams	www.legislationline.org; www.legaltext.ee (in Estonian)
2005	Citizenship Act Amendment Act of 19 October 2005 (entered into force on 1 January 2006)	Simplifies the definition of legal income	www.legislationline.org; www.legaltext.ee (in Estonian)
2006	Citizenship Act Amendment Act of 15 June 2006 (enacted 8 July 2006)	Shortens the waiting time after the registration of citizenship application from one year to six months; allows, as an exception, acquisition and restoration of citizenship by a person who has been repeatedly punished under criminal procedure for intentionally committed criminal offences	www.legaltext.ee (in Estonian)

Notes

- 1 Although the 1977 Constitution of the Estonian SSR used the term 'citizens of the Estonian SSR', it was merely a synonym for the mandatory Soviet registration of domicile (in Russian: *propiska*).
- 2 In this chapter the terms 'Estonian', 'Russian', etc. designate ethnicity. The term 'non-Estonians' refers to all individuals whose ethnic origin is different from that of

Estonians. The term ‘Russian-speakers’ stands for those non-Estonians whose mother tongue, or predominantly used language, is Russian.

- 3 This subsection draws on Thiele (1999: 14-16).
- 4 An English translation is available at www.legislationline.org.
- 5 Estonian law uses the term ‘alien’ rather than ‘foreign national’ to categorise a person who is not an Estonian citizen (Aliens Act of 1993, art. 8). The category of ‘aliens’ also applies to stateless persons who form a large group among Estonia’s non-citizens. The Estonian identification document issued to a stateless person is called an ‘Alien’s passport’ which many stateless persons who were born in the country consider as inappropriate, if not insulting. In Estonian political discourse the stateless persons are characterised differently from the legal jargon as individuals ‘who have undetermined citizenship’ which gives the whole issue a slightly more positive twist.
- 6 According to some estimates, this group, which the authorities consider to be a threat to state security, is comprised of approximately 30,000 persons (including family members). Their pensions and health insurances are paid by the Russian Federation. Many of them are also citizens of the Russian Federation. Until 2006, before the new EU regulations were enacted, Estonia provided Soviet Army retirees with temporary residence permits. Now, they enjoy the right to permanent residence permits as nationals of third states who have legally resided in an EU Member State for five years or more. Paradoxically, after Estonia was fully integrated into the Schengen area in 2008, those permanent residents who hold a Russian passport can travel without a visa from the Pacific Ocean to the Atlantic Ocean, while Estonian citizens still need a visa to travel to Russia.
- 7 In May 2008, the state fee for naturalisation as well as for release from Estonian nationality was 200 Estonian kroons (13 euros), while the minimum monthly salary was 3,600 Estonian kroons (230 euros). Applicants do not usually consider this fee to be a significant obstacle.
- 8 See www.rahvastikumminister.ee.
- 9 See www.meis.ee (Non-Estonians’ Integration Foundation).
- 10 In 2000, the government of Estonia adopted the state programme ‘Integration in Estonian Society 2000-2007’; in April 2008, the government adopted the second state programme of integration for 2008-2013 (see www.rahvastikumminister.ee).
- 11 After 1991, depopulation became a firm trend in Estonia. The censuses of 1989 and 2000 show that while all minority groups diminished in size, only the Ukrainians, Byelorussians, Tatars, Jews and Germans lost more than one third of their population. At the same time, the most numerous group – the Russians in Estonia – had decreased from 475 to 351 thousand, or only by one fourth. All in all, the absolute number of non-Estonians went down 27 per cent between the two censuses while the absolute number of Estonians decreased by only 12 per cent. As a result, the share of Estonians in the total population went up 6.4 percentage points from 61.5 to 67.9. According to the census of 2000, the total population of Estonia was 1,370,052 (in 1989: 1,565,622) (Statistical Office of Estonia 2001: 14).
- 12 See www.rahvastikumminister.ee.
- 13 See the results of Integration Monitoring 2000, 2002, and 2005 at www.meis.ee.
- 14 See ‘Huvi vene kodakondsuse vastu on kasvanud [Interest in Russian citizenship has grown]’, www.delfi.ee, 23 March 2008; Madis Taras, ‘Vene kodakondsust taotletakse varasemast aktiivsemalt [People apply for Russian citizenship more actively than before]’, *Eesti Päevaleht* [Estonian Daily], 24 March 2008. www.epl.ee.
- 15 Estonians, worried by growing immigration, had already started introducing measures during the pre-Gorbachev era to bring this process under control. Thus, in the early 1980s, the municipality of Tallinn, the capital of Estonia, started to limit the

number of workers that industries and other enterprises were allowed to bring into Estonia, charging them considerable fees for every worker who eventually settled in Tallinn. It is interesting that the legality of these improvised methods was not challenged by Moscow, possibly because the growing inter-ethnic tensions had already sparked public unrest among the youth in Tallinn in the autumn of 1980. However, a more systemic foundation for the immigration policy was laid in 1990, when the Supreme Council of the Estonian Soviet Socialist Republic (Estonian SSR) established the National Migration Board of the Estonian SSR, the predecessor of the CMB. This agency's task was to carry out state control of migration and issue residence and work permits. For that purpose the Supreme Council adopted the 'Immigration Law of the Estonian SSR', which entered into force on 1 July 1990. This law established the requirement that any alien who wanted to settle in Estonia must apply for a residence permit. The first permits were issued in January 1991.

16 Between 1992 and 31.12.2007, 147,228 persons were naturalised in Estonia according to updates available at www.rahvastikumister.ee.

17 Source: www.rahvastikumister.ee.

18 These documents include the Convention on the Prevention and Punishment of the Crime of Genocide (entry into force in Estonia 19 January 1992), the International Convention on the Elimination of All Forms of Racial Discrimination (20 November 1991), the International Covenant on Economic, Social and Cultural Rights (21 January 1992), the International Covenant on Civil and Political Rights (21 January 1992), the Optional Protocol to the Covenant on Civil and Political Rights (21 January 1992), the Convention on the Elimination of All Forms of Discrimination against Women (20 November 1991), the Convention on the Rights of the Child (20 November 1991), the Framework Convention for the Protection of National Minorities (1 February 1998).

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