

*Undine Bollow*

## The OSCE Missions to Estonia and Latvia<sup>1</sup>

The three Baltic states are generally viewed as a unity, as three small countries that can hardly be distinguished from one another. But a more careful look at this region of Europe makes clear that this is not the case and that along with many common elements each of them indeed has characteristics that are unique. While the demographic situation, as it existed immediately after recovery of state sovereignty in the early nineties, was similar and thus comparable in Estonia and Latvia, Lithuania already differed from its two neighbours. Demographic shifts that had their origin in the settlement policies of the Soviet Union had left a significantly lighter mark on Lithuania than they did on Estonia and Latvia, where the immigrants represented not only a legacy of the immediate past but a challenge for the future.<sup>2</sup> Taking account of this important difference the OSCE opened Missions in Estonia and Latvia in 1993, hoping thereby to promote the reorganization of society and the establishment of civil societies in both countries, while defusing any possible tensions that might arise in the process. The OSCE has never opened an office in Lithuania.

Both of these Missions operate on the basis of individual mandates which are renewed every six months. So far there have been no changes in the wording of the mandates with the result that both OSCE Missions continue to work in the field of citizenship and to concern themselves with issues affecting national minorities. In addition, the Missions observe and report on progress in implementation of OSCE principles, norms and commitments. In carrying out their mandates, the two Missions co-operate with other institutions, organizations and individuals that are interested in a dialogue on the relevant issues. They provide advice on a wide variety of levels and serve as an independent source of information both within their respective countries and abroad.

As countries that had once again become independent, Estonia and Latvia at the beginning of this decade were not only confronted with the task of ridding their legislation of its socialist inheritance; unlike most of the other reform states of Central and Eastern Europe they also faced the challenge of

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1 The opinions and views expressed in this essay do not represent the official position of the OSCE Mission to Latvia or of the OSCE as a whole but are solely the personal observations and evaluations of the author.

2 At the time of the 1989 census the Russian-speaking share of the population in Latvia was 38.5 per cent (Russians and Belarusians; Latvians: 52 per cent) and in Estonia 30 per cent (Estonians: 61.5 per cent), while in Lithuania Russians and Belarusians made up only 11.4 per cent (Lithuanians: 79.6 per cent); cf. Rudolf A. Mark, *Die Völker der ehemaligen Sowjetunion* [The Peoples of the Former Soviet Union], Braunschweig 1992.

drafting important elements of their legislation from scratch. During the first years after restoration of their national independence practically the whole legislative foundation of these countries, from their constitutions to their citizenship laws and legislation dealing with foreigners, either had to be worked out anew or the legislation stemming from the time between the wars had to be adapted to the new circumstances. For that reason a significant part of the work of both Missions during the first years of their existence was focused on legislation. What was important was to take an active interest in the drafting of new laws, to provide ready counsel to the responsible authors and to monitor the unfolding process.

As a result of the passage of the most essential laws, the main focus of the two Missions' work has shifted in recent months and years. It is no longer legislation as such that is at the centre of their work but, rather, the implementation of the newly created legal framework, its effect on processes within the population, and possible amendments to the laws. In this connection, co-operation with institutions, organizations and individuals that seek actively to support the building of a "civil society" has increasingly become the centre of interest for the Missions. Thus the work of the two Missions has changed in tandem with the ongoing reform process in Estonia and Latvia and with the transition from the phase of democratization to the period of consolidation of the young democracies.

#### *The OSCE Mission to Estonia*

From the autumn of 1998 till the end of 1999 the Mission was under the direction of Ambassador Bernd Braun of Germany. Previously it had been run for a year by Ambassador Detlof von Berg (also from Germany) who, for his part, had relieved Ambassador Jean Perrin of France. The work of the six-man Mission to Estonia continues to be characterized by a division of labour according to region although the main focus has shifted more and more to the capital city, Tallinn, in recent years.

A division of labour by region was introduced when the Mission opened, owing to the demographic situation - a particularly heavy concentration of the Russian-speaking population in the north-eastern part of the country - and to facilitate the carrying out of the Mission's mandate. Of the six Mission members, two worked permanently in the north-eastern border city of Narva and two others in the capital of the north-eastern county of Johvi. For a good two years, however, there has been a noticeable tendency for the work of the Mission to concentrate more strongly on the capital, Tallinn. Projects initiated or supported by the Mission call increasingly for a presence in the Estonian capital and as a result the division of labour, once purely regional, is coming

to include many functional aspects. At the present time the Mission's office in Narva, with the assistance of a local employee, is kept open daily for those seeking advice, many of whom continue to make use of this opportunity. However, Mission members now travel to the north-east of Estonia for only one or two days.

Since the restoration of national independence, citizenship issues in the broadest sense have attracted international attention and for a long time they were at the heart of the Mission's work. In this connection, the Mission devoted special attention to the texts of the relevant laws. In December 1998 the Estonian Parliament passed an amended citizenship law which made it possible for children born stateless in Estonia to acquire citizenship with no prerequisites. The changes to the law were formally announced in that same month by President Lennart Meri and entered into force on 12 July 1999. Henceforth parents could apply for Estonian citizenship for their children born in Estonia after 26 February 1992 so that for these children the entire process of naturalization, including the obligatory examinations, became unnecessary. The High Commissioner on National Minorities and the OSCE Mission welcomed these changes in the law and regarded them as a significant step to promote integration in Estonia.

The legal status of immigrants from the Soviet period who do not want to apply for Estonian citizenship or are unable to do so is regulated by the Law on Aliens of 1995. This law was amended in February 1999 through changes in the provisions on immigration and through the transfer to the responsible officials of expanded authority to issue residence permits. The Mission welcomed this amendment as well because a large proportion of the people who had lived in Estonia illegally, even though they had come there before the 1 July 1990 deadline, would now, on the basis of this most recent change, be able to legalize their status in the country.

As a part of its mandate the Mission has over the years followed developments in language policy. The most recent changes have come about as a result of amendments to the language and election laws. The changes to the language law, adopted by the Parliament in February 1999 and promulgated by the President, make a distinction between the language ability required in the public and the private sphere. Owing to a lack of implementation provisions, however, this new version of the law could not enter into force on 1 July 1999 as originally foreseen. While the implementation provisions for the public sector were adopted on 27 July, those for the private sphere have yet to be passed. Passage is expected by the beginning of October. The Mission is following these most recent developments in close co-ordination with the responsible authorities in Estonia and with the Office of the High Commissioner.

Changes in the election laws have an effect on, among other things, the language requirements for persons who want to run for public office. In accordance with amendments passed in December 1998 only those citizens of Estonia may be candidates in the parliamentary and municipal elections who demonstrate an adequate command of the state language - one, for example, which enables them to understand the content of laws, to submit reports on agenda items, to express themselves in public speeches, to submit proposals or ask questions about them, and to carry on a dialogue with the electorate. Max van der Stoep, the OSCE's High Commissioner on National Minorities, requested that President Meri not promulgate these amendments because any language requirement that is made a condition for the exercise of the active or passive right to vote is contrary to the European Convention on Human Rights and to the International Covenant on Civil and Political Rights. The Estonian President did not meet this request, however, but confirmed the amendments so that they entered into force on 1 May 1999. Thus the amendments did not affect the parliamentary elections that were held in March 1999 but were first applied to the municipal elections in October 1999.

As mentioned above, the Estonian language plays a role of central importance in the process of consolidating the young democracy and in the integration of society. For this reason the Mission strives to promote knowledge of the state language at a variety of levels. The training programme for the Estonian language, modelled on the successful language programme in Latvia, was introduced in 1998. The objective of this programme is to improve the knowledge of the Estonian language among those persons in the population to whom it is not native, thus promoting integration in the country. The Mission, which has supported this project from the beginning, is a full board-member of the UNDP/PHARE project and as such intimately familiar with the implementation and execution of the programme.

Recognizing the role that non-governmental organizations play in developing a civil society and in the field of integration, the Mission has during the past two years expanded and intensified its existing relations with the NGO community. The OSCE Mission attaches great importance to a balanced distribution of contacts in this area with both Estonian and non-Estonian organizations. In addition to providing practical and technical support the Mission has organized seminars to assist in the further development and support of the non-governmental organizations.

Human and minority rights make up an important part of the Mission's work and it continues to take part as observer in every meeting of the Presidential Round Table on Inter-Ethnic Relations. Beyond that, the Mission has since summer of 1998 been sending one of its legal experts to give weekly lectures on human rights at Tartu University. In early 1999 the Mission organized, in

co-operation with the Office of the High Commissioner on National Minorities, a seminar on the Oslo and The Hague Recommendations. Its activities are aimed at establishing a forum for discussion of matters pertaining to education of and for minorities in Estonia.

In carrying out its broad responsibilities the Mission co-operates with local authorities, institutions and organizations as well as with the international organizations and representatives of other countries who are on the scene. There is also a close working relationship with OSCE institutions such as the Office of the High Commissioner on National Minorities and the Office for Democratic Institutions and Human Rights (ODIHR), the Council of Europe, the Council of the Baltic Sea States and the local offices of the United Nations for whom the Mission is in equal measure a partner for co-operation, a source of information and a local point of contact.

There is another OSCE representative working independently of the Mission in Estonia. In November 1994 Uwe Mahrenholz, Captain of the German Navy, was appointed OSCE Representative to the Estonian Government Commission on Military Pensioners. This Commission makes recommendations on the issuance of residence permits for former members of Soviet military units and their families. In the years since its establishment the Government Commission has made recommendations in favour of about 15,000 former members of the military and their family members and it will continue to meet regularly until decisions have been made on all cases not yet processed. Due to the legal situation in Estonia it is impermissible to issue an unlimited residence permit to former members of foreign armed forces and their families; as a consequence the Government Commission will have to remain in existence even after the initial processing of all cases. For the foreseeable future, therefore, the mandate of the OSCE Representative cannot be regarded as fulfilled.

#### *The OSCE Mission to Latvia*

The Head of the OSCE Mission to Latvia in 1999 was David Johnson from Great Britain. He took the office over in November 1998 from his countryman, Richard C. Samuel, who for his part had in the autumn of 1997 relieved the long-time Head of Mission, Charles Magee from the United States. At the present time the Head of Mission is assisted by four international Mission members whose work is organized according to functional criteria. Since its opening the OSCE Mission to Latvia has been located in the capital city, Riga. In contrast to its northern neighbour, Latvia's ethnic population distribution did not argue for opening field offices in other cities. Rather, regional aspects have for years been dealt with through a so-called "Road Trip Pro-

gramme". Under this programme, Mission members generally travel once a month to another region of the country where they arrange meetings with representatives of governmental and non-governmental organizations and with the press. In this way the Mission tries to obtain a comprehensive view of those developments in the country which are relevant to the OSCE's work in Latvia - something which would not be possible by working in Riga alone.

In carrying out its mandate the Mission has from the beginning been concerned primarily with citizenship issues and subjects directly related thereto. While the Mission in the first years of its existence was mainly preoccupied with following legislation in this field, its range of activities has more recently expanded. Other aspects of integration have come to predominate, e.g. social issues, problems related to language and education and other matters bearing on the status of the various ethnic groups in the country. In this connection, the Mission has given particular attention to the government's initiative to develop a national integration programme for Latvia.

Since adoption of the Citizenship Law in 1994, naturalization has been limited by a so-called "window-system" that divided up all possible applicants according to place and year of birth. Beginning in 1995 this system permitted the members of one additional group to apply for citizenship each calendar year. However, as of late autumn 1998 only seven per cent of those eligible under the "window" regime had made use of this offer. Under these circumstances an initiative by the government to amend the Citizenship Law was welcomed by the international community. In close co-operation with the Office of the High Commissioner on National Minorities, the Mission followed the changes to the law which were ultimately adopted by the Saeima, the Latvian Parliament, on 22 June 1998. Among other things, they included the abolition of the "window-system" and an option for children born stateless in Latvia after 21 August 1991 to receive Latvian citizenship without going through the naturalization process.

Confirmed by a referendum held in the autumn of 1998, the repeal of the "window-system" entered into force on 10 November and triggered a wave of naturalizations. On average a threefold to fourfold rise can be observed in comparison with the previous year. In 1999 a total of 15.183 people applied for naturalization and it is expected that this trend will continue in the years to come. The naturalization examinations have been simplified in recent years, in co-operation with the Council of Europe, and they now represent an appropriate and fair test of the applicant's knowledge.

The amendment to the Citizenship Law that makes it possible for children born stateless in Latvia to acquire Latvian citizenship without prerequisites entered into force at the beginning of 1999. Since that time about 250<sup>3</sup> parents have taken advantage of this offer for their minor children, a figure that

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3 Status as of September 1999.

is substantially lower than was predicted in 1998. One possible explanation that has been offered is that parents prefer to have the whole family go through the naturalization process together. So far, the number of people who want Latvian citizenship for their children but do not contemplate naturalization for themselves is relatively small.

As in past years, the Mission is continuing its so-called "Case Work Programme" through which it offers its good offices to those seeking advice, mainly in the area of naturalization and the issuance of so-called non-citizen passports. Since 1997 permanent residents of Latvia who are without any citizenship and do not plan to acquire Latvian citizenship have had the option of applying for Latvia's "non-citizen passport". This passport does not only permit the holder to travel abroad, but also serves as a document of identification within the country. This is the more important since the last (former) Soviet passport will expire as a valid document of identification in Latvia on 31 March 2000. The Mission welcomes the issuance of this passport, which provides a legal status for immigrants of the Soviet era.

As a part of its work the Mission follows legislation that touches upon issues of human and minority rights. For years the Latvian Parliament has been trying to pass a new language law with the intention of using it to strengthen the position of the Latvian language and to promote the use of the state language at all levels. It proved impossible to pass the law in the last legislative period, however, the project was carried forward in the newly elected Parliament and the new State Language Law was adopted by the Saeima on 8 July 1999. The High Commissioner on National Minorities and other international organizations expressed their concern over several provisions in the law just passed that provide for intervention by the state in the private sphere without legitimate public interest. The newly elected President, Vaira Vike-Freiberga, decided not to sign the law but to send it back to the Parliament for further review. The language law was thereupon referred to the responsible committee to be debated again in the Saeima.<sup>4</sup>

In the autumn of 1998 a new framework law on education was adopted which established the basis for a reform of the school system. It calls for Latvian as the language of instruction in all public schools except for those that wish to offer instruction under an educational programme for minorities. Schools that want to teach in a language other than Latvian may do so in the elementary and middle schools (including grade 9) by deciding on one of four available teaching models. This law entered into force at the beginning of the

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4 The law was adopted in the Saeima on 9 December 1999. The High Commissioner on National Minorities welcomed the adoption of the law and came to the conclusion that the law is now essentially in conformity with Latvia's international obligations and commitments. He expressed his trust that the cabinet of ministers will follow the letter and the spirit of the law in elaborating regulations for implementation. The law will enter into force on 1 September 2000.

1999/2000 school year and provides for a transition period extending until 2004.

In early 1998 the government at that time initiated the drafting of a Social Integration Programme to be developed in three phases. The first phase saw the creation of a conceptual framework document which was adopted by the government in autumn 1998 and contains chapters on promoting integration in such fields as naturalization, language and education. At the beginning of 1999, during the second phase a working group was created including high-level government officials as well as representatives from the non-governmental sector. On the invitation of the then Foreign Minister, the OSCE Mission participates in the working group. From mid-March through the end of May the working group organized a public hearing on the framework document in which about 25,000 people participated. The Mission followed this debate, took an active part in several events, and organized a seminar as part of the public hearing phase (see below). The knowledge gained from this public airing led to a revision of the framework document which was adopted by the cabinet at the end of September, thus closing the second phase. The third phase, finally, will be devoted to working out the actual programme which could be sent to the cabinet of ministers for adoption in early summer 2000. The Mission welcomes the initiative for an integration programme and will in the future continue to follow and support this process (see below).

In addition to the Mission's activities described above, the Head of Mission continues to represent the OSCE in the Commission which oversees the implementation of the Russian-Latvian agreement on social security for military pensioners who have remained in Latvia. It is noteworthy that the frequency of meetings of this three-sided body has diminished in recent months; this can be taken as a sign that most of the issues that arose in connection with military pensioners remaining in Latvia have been successfully dealt with.

Over the past several years the Mission has participated in two book projects and one research project that are directly related to its work. In addition, the Mission organized as part of the public debate on the national integration programme a seminar on the significance of education and language in promoting integration<sup>5</sup> and held another in October for authors and co-authors of the integration programme. In co-operation with the Naturalization Board and with the financial support of the Danish government the Mission conducted a seminar designed to give the existing regional integration initiatives a forum for discussion and encourage regions where an initiative does not exist as yet. In co-operation with regional NGO centres all over Latvia the Mission called for further involvement of the NGO sector in the discussion on integration.

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5 The seminar was carried out with financial support from the Foundation on Inter-Ethnic Relations in The Hague.



With the financial support of the embassies of Sweden, Norway, Finland and the UK a whole range of different projects have already materialized.

As already noted above, the Mission maintains numerous contacts with Latvian authorities and institutions. They range over a variety of levels and subject areas and include meetings with government officials in the various regions of Latvia, as well as the capital city, and with Members of Parliament; they involve participating in sessions of permanent committees of the Saeima and carrying on discussions at the ministerial and even presidential level. The Mission generally receives support for its work and only rarely encounters problems of co-operation. There are particularly close working contacts with the Naturalization Board, the Department for Citizenship and Migration and with the Latvian Language Training Programme.

The Mission also maintains close contacts with non-governmental organizations in Latvia whose interests coincide with its mandate, and it has had good experiences with joint projects. The NGO Centre, along with its branch offices in eleven Latvian cities, has proven to be very helpful in arranging co-operation with NGOs in the various regions of the country (see above).

Furthermore, the Mission exchanges views regularly with representatives of the international community, with which it maintains excellent relations. Its co-operation with international organizations is quite varied and includes, along with the UNDP and the International Organization for Migration (IOM), the Council of the Baltic Sea States and the Council of Europe. Within the OSCE the Mission maintains a particularly close working relationship with the Office of the High Commissioner on National Minorities and co-operates with the ODIHR in carrying out a variety of projects. This broad range of contacts and the good working relationships are making it possible for the Mission to fulfil its mandate successfully.

Apart from the Mission, the OSCE has for many years maintained another office in Latvia. A separate agreement regulated the shut-down and dismantling of the radar station at Skrunda within the framework of the Soviet-Russian troop withdrawal. While all other troops had left Latvia by the end of August 1994, the bilateral agreement on the Skrunda radar station stipulated that it could continue to operate until late summer of 1998 with dismantling to be completed thereafter by 29 February 2000. The parties to the agreement asked that a representative of the OSCE be assigned to supervise the implementation of the agreement and to sit as a member of the Joint Committee that dealt with questions related to Skrunda. Until 1998 this observer mission was led by the Danish diplomat, Jorgen Andersen, with support from the German Air Force Colonel, Jürgen Hübschen. Since Andersen's departure Jürgen Hübschen has represented the OSCE alone. The radar station was shut-down on time at the end of August 1998 and orderly dismantled in October 1999 well before the original due date thus finishing off the process.

This was a matter of historic dimension, not only for the Baltic region but for the OSCE. For one thing, fulfilment of the bilateral treaty meant that the last active Soviet-Russian soldier actually left the Baltic states, thus completing the troop withdrawal of 1994. Moreover, the completion of the Skrunda Mission is of historic importance for the OSCE because with the fulfilment of its mandate a mission, for the first time in the history of the Organization, will have been concluded, having been carried out to the satisfaction of all participants.

*From Six Months to Six Years or More?*

When they were opened the OSCE Missions to Estonia and Latvia were both described as "long-term". However, the fact that their mandates are issued for six months at a time makes clear the temporary character of these Missions. Moreover, the mandates are formulated in such a way as to make clear that the Missions' stay in the host country is meant to solve certain problems which will later be taken over by institutions of the country itself. Due to this contradiction there has in recent years been occasional discussion of a so-called "exit" strategy, both in the host countries and within the OSCE.

For the new millennium it is to be hoped that the OSCE will elaborate a conceptual approach towards the closure of OSCE missions, thus once again demonstrating its flexibility.