



# EU-CITIZEN: ACADEMIC NETWORK ON EUROPEAN CITIZENSHIP RIGHTS

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## Minorities in the Baltic and countries and Finland and their participation (rights) – Finland, Estonia, Latvia, Lithuania

Pilot study for TYPE A REPORT

by Tanel Kerikmäe, Archil Chochia, Thomas Hoffmann

<b>Author(s)</b>	Tanel Kerikmäe, Archil Chochia, Thomas Hoffmann
<b>Partner(s) involved</b>	Tallinn University of Technology
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This report has been compiled to present the participation rights of minorities in Finland, Estonia, Latvia and Lithuania. As of today, the CoE Framework Convention for the Protection of National Minorities does not provide a unified definition of this politically sensitive term; thus for the purpose of the current research we suggest understanding ‘minority’ as a group of people who identify themselves differently from the numerously bigger part of the society in question, based on their ethnic, cultural, linguistic, religious or another identity. The report covers briefly the legislative basis for such rights, describes the questions regarding the political participation of minorities and introduces some positive aspects as well as concerns relating to the question.

### Key findings:

- Since the restoration of independence in 1991, the Baltic states (particularly Estonia and Latvia) faced considerable challenges to build national identity-based homogenous societies, re-establish the comprehensive use of their national languages and avoid the possible tensions with Russian-speaking minorities. This approach has received criticisms for non-compliance with European human rights standards from international organizations, particularly in the EU. The relatively restrictive national policies of the Baltic States towards their minorities is also reflected in the fact that none of the Baltic States has ratified the European Charter for Regional or Minority Languages<sup>1</sup>, which was adopted on 25 June 1992 by the Committee of Ministers of the Council of Europe and entered into force on 1 March 1998. More detailed provisions on participation of the minorities in the political life are provided by the Citizenship Act, the National Minorities Cultural Autonomy Act, the Riigikogu Election Act, the President of the Republic Election Act, the Local Authority Council Election Act, and the Referendum Act.
- Regarding Estonia, the European Commission against Racism and Intolerance has repeatedly recommended that the Estonian authorities further ensure policies against discrimination based on language and citizenship status. In general, there are few limits to participatory rights not related to the citizenship status. Anyhow, during the last national parliamentary elections, voting instructions sent to voters, as well as information in polling stations and on ballots, were only in Estonian.
- Compared to Estonia, the Latvian regulatory framework for the political participation of minorities is more restricted; e. g., voting rights in local elections have never been granted to non-citizens in Latvia, whereas Estonia has granted voting rights to non-citizen residents, and non-citizen children continue to be born in Latvia, while in Estonia all children born after 1992 were granted Estonian citizenship. Latvian authorities’ efforts to promote equality and participation among Roma have not been effective in resolving their continuous exclusion, with a need for greater involvement of Roma representatives in the implementation of public projects.

In 2016, the UN Committee on the Elimination of Racial Discrimination issued several important Recommendations for the Latvian government in order to achieve more social integration of national minorities, particularly: to consider allowing non-citizens who are long-time permanent residents to participate in local elections; prevent discrimination of these individuals in access to public services; continue to remove any remaining barriers to naturalization and facilitate

<sup>1</sup> <https://www.coe.int/en/web/european-charter-regional-or-minority-languages>

naturalization for individuals wishing to partake in it; intensify efforts to ensure that all children have access to a nationality at birth, including by successfully amending the Citizenship Law to automatically grant citizenship to children born in Latvia who would otherwise be without nationality.

- The Lithuanian legal framework is generally complying with common European standards, with only a few points to improve for equal political participation. For example, the term “ethnic communities” from the Lithuanian constitution has been criticized by the advisory committee on the Framework Convention for the Protection of National Minorities for its vagueness.

## 1.1 FINLAND

Electoral and participatory rights in Finland are guaranteed in Art. 14 of the Constitution (731/1999). According to the said article every Finnish citizen and EU citizen residing in Finland has a right to vote in the European Parliament (EP) elections as provided by an Act. Regarding the municipal elections the right to vote has been granted to all Finnish citizens and every foreign national who has permanent residence in Finland. In national elections (i.e. presidential and parliamentary) the eligibility to vote has, however, been provided for the citizens of Finland only. More detailed rules, including the eligibility to stand as a candidate, have been codified in the Electoral Act (Vaalilaki, 714/1998) and Local Government Act (Kuntalaki, 410/2015).

According to the official statistics of Finland, in 2017 Finland accommodated approximately 249 500 foreign citizens, the largest group being Estonians (more than 50.000), followed by Russian citizens (a bit less than 30.000) and Iranians (approximately 12.000).<sup>2</sup> The amount of citizens from Sweden, Thailand, Somalia and China residing in Finland is approximately between 6.000 and 10.000, whereas the citizens of other groups (incl. the UK, Poland and Latvia) are below 6.000.<sup>3</sup> All in all, in the end of 2017 Finland had registered residents from 180 different countries, making foreign nationals to form 4,5% of the population in Finland.<sup>4</sup>

The bygone era of Swedish rule in Finland led to the emergence of a massive Swedish-speaking community (over 286.000),<sup>5</sup> and Swedish language given the status of the second official one by Finnish Constitution. According to the statistical data, the number of native Swedish speakers in Finland has been gradually declining from 12.9% at the dawn of the 20<sup>th</sup> century to 5.2% in 2018. The political party claiming to represent Swedes in Finland – the Swedish People's Party of Finland (Swedish: *venska folkpartiet i Finland* (SFP)) – received around 5 % in the recent elections. Among the national minority groups Roma people shall not be ignored either. No exact statistic is available, but it has been estimated that there are approximately 10.000 Roma in Finland.<sup>6</sup> This ethnic minority group tends to face prejudices and racisms to the extent that Finnish League for Human Rights have added the issue to its

<sup>2</sup> Official Statistics of Finland <https://www.tilastokeskus.fi/tup/maahanmuutto/maahanmuuttajat-vaestossa/ulkomaan-kansalaiset.html> last visited 24 Sep 2018

<sup>3</sup> Ibid

<sup>4</sup> Ibid

<sup>5</sup> Official Statistics of Finland [https://www.tilastokeskus.fi/tup/suoluk/suoluk\\_vaesto\\_en.html](https://www.tilastokeskus.fi/tup/suoluk/suoluk_vaesto_en.html) last visited 9 Apr. 19

<sup>6</sup> *Finland's Roma People*, Brochures of the Ministry of Social Affairs and Health 2004:2, p. 3. <https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/70194/Es200402eng.pdf?sequence=1> last visited 24 Sep 2018. Kaisa Lähteenmäki-Smith, *Finland Promoting Social Inclusion of Roma: A Study of National Policies*, Per Review in Social Protection and Social Inclusion and Assessment in Social Inclusion, July 2011, p. 2.



agenda and collaborates closely with Roma to raise the awareness and combat the racisms.<sup>7</sup> Furthermore, Finland has the Sami minority, an indigenous people habiting primarily the very northern parts of Finland. The Sami population in Finland has been estimated to be approximately 10.000.<sup>8</sup> However, the Sami people are not only a minority group in Finland, but their settlement area expands to Sweden and Norway as well.

## 1.2 ESTONIA

Although Estonia is one of the smallest countries of European Union in terms of population (falling behind only Luxembourg, Malta and Cyprus) with a community of around 1,3 million people, the issues of ethnic minorities representation and integration remain to be on the top of local political agenda since restoring independence in 1991. As of today, around quarter of Estonian residents identify themselves as ethnic Russians (circa 330 000), accompanied by circa 68 000 representatives of smaller diasporas – Ukrainians (over 23 000), Belarusians (over 11 000), followed by Finns, Latvians, Tatars, Jews, Poles, Lithuanians and Germans.<sup>9</sup> The Council of Europe estimates that there are approximately 1,250 Roma living in Estonia (0.1% of the population)<sup>10</sup>.

According to the Constitution of Estonia, everyone has the right to preserve his or her ethnic identity (art. 49), and national minorities have the right, in the interests of their culture, to establish self-governing agencies under such conditions and pursuant to such procedure as are provided in the National Minorities Cultural Autonomy Act (art. 50)<sup>11</sup>. Like in most other EU member states, the elections to European Parliament include in the voters roll both Estonian and foreign EU citizens, municipal elections regulations allow the participation of permanent foreign residents, while Riigikogu (National Parliament) elections are restricted to nationals only. It should also be taken into account that Estonian laws provide for a special status of “undefined citizens” who can only vote in the local elections, i. e. people who failed to meet the requirements for obtaining Estonian citizenship after the restoration of independence (mainly the knowledge of Estonian language). More detailed provisions on participation of the minorities in the political life are provided by the Citizenship Act, the National Minorities Cultural Autonomy Act, the Riigikogu Election Act, the President of the Republic Election Act, the Local Authority Council Election Act, and the Referendum Act.

## 1.3 LATVIA

In Latvia, the total share of Russian speaking inhabitants reaches 25.2% as well – despite the rapid decline after 1991, in 2017 the number of ethnic Russians still prevails other foreign nations inhabiting Latvia with almost half a million inhabitants. The official statistics demonstrate presence of Belarusians (around 3.3%), Ukrainians (2.2%), Poles (2.1%), Lithuanians (1.2%), also a 3,8% of total share of other

<sup>7</sup> Leif Hagert, “Varokaa mustalaista!” Rasismi aiheuttaa traumaperäistä stressiä, joka vaikuttaa sukupolvelta toiselle”, Finnish League for Human Rights, 19 Sep 2018, <https://ihmisoikeusliitto.fi/varokaa-mustalaista-rasismi-aiheuttaa-traumaperaista-stressia/> last visited 24 Sep 2018.

<sup>8</sup> Saamelaisten lukumäärä vuoden 2015 Saamelaiskäräjien vaaleissa, [https://www.inari.fi/media/tiedostot-2016/hallinto-2016//saamelaisten\\_lukumaara\\_2015.pdf](https://www.inari.fi/media/tiedostot-2016/hallinto-2016//saamelaisten_lukumaara_2015.pdf), las accessed 24 Sep 2018.

<sup>9</sup> Statistics Estonia <https://www.stat.ee/34278?highlight=russian>

<sup>10</sup> [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-and-eu/roma-integration-eu-country/roma-integration-estonia\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-and-eu/roma-integration-eu-country/roma-integration-estonia_en)

<sup>11</sup> <https://www.president.ee/en/republic-of-estonia/the-constitution/index.html>



minority groups (Jews, Roma, Germans, Estonians et al).<sup>12</sup> After the collapse of the USSR, along with Estonian counterparts Latvian government had introduced the doctrine of ‘ethnic democracy’ with limitations for non-nationals to participate in political life and join certain professions, because national elites had considered the presence of its Russophone minorities to be consequence of the Soviet occupation regime and therefore illegitimate..<sup>13</sup>

#### 1.4 LITHUANIA

Like the other two Baltic states, Lithuania also tends to demonstrate diversity despite being a relatively small European country. Anyhow, as of 2018, Russian ethnic minority (4,5%) here is only the second largest after Polish (5,6%), accompanied by less numerous Belarusian (1,4%), Ukrainian (0,7%), Jewish (0,1%), Latvian (0,1%), Roma (0,1%) and other ethnicities<sup>14</sup>. This feature of being less “Russified” during the times of the Soviet rule is often explained by the economy of the region, which was not largely industrialized in the Cold War era<sup>15</sup>.

The large ethnic group of Russians in Latvia and Estonia originates from the Soviet politics of resettlement, has heterogeneous cultural and religious routes, and faces common challenges in social integration and political representation. The latter came as an inevitable consequence of rebuilding national identities strategies through imposing a set of limitations in political and social life for persons with limited proficiency in the official languages.

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<sup>12</sup> <https://www.csb.gov.lv/en/statistics/statistics-by-theme/economy/gdp/search-in-theme/163-statistical-yearbook-latvia-2017>

<sup>13</sup> The Influence of Party Competition on Minority Politics: A Comparison of Latvia and Estonia. <http://www.ecmi.de/fileadmin/downloads/publications/JEMIE/2014/Nakai.pdf>

<sup>14</sup> <https://osp.stat.gov.lt/statistiniu-rodikliu-analize?indicator=S3R162#/>

<sup>15</sup> Russian and Soviet Nationalities Policy in the Baltic States, 1855-1991 <https://scholarworks.uvm.edu/cgi/viewcontent.cgi?referer=https://www.google.ee/&httpsredir=1&article=1010&context=castheses>

## 1.5 FINLAND

As described above in the introduction eligibility to participate in elections in Finland is granted automatically in every election to Finnish citizens who have reached the age of 18. EU citizens are eligible to cast their vote in EP elections and municipal elections, whereas non-EU citizens can only exercise their participation right in the municipal elections. Thus, participatory rights of national minorities, such as Roma and the Sami people are thus dependable on citizenship. There are no barriers for Finnish minorities to enjoy their right to peaceful assembly or public consultations etc.

Non-discrimination, as guaranteed in the Constitution (Art. 6), is one of the leading legal principles in Finland. It follows that all minority groups in Finland should enjoy the equal participatory rights without any unlawful discrimination. Finland has also enacted a specific Non-Discrimination Act (Yhdenvertaisuuslaki, 1325/2014) which aims to promote equality and prevent discrimination both in public and private activities. However, the Personal Data Act (Henkilötietolaki, 532/1999) prohibits the processing of sensible data relating to *inter alia* on race or ethnic origin,<sup>16</sup> which is why there are no concrete statistics on how ethnic minorities exercise their participatory rights in elections available.

The political participation of Swedish-speaking Finns is not so easy to trace via official statistical data, as all citizens of Finland are entitled to enjoy core human rights and freedoms regardless of their race, ethnicity or native language skills. Anyhow, the group slightly stands out from the common political pattern in two ways. Firstly, since 1950s, the interests of the community have been represented by the Swedish People's Party of Finland (SFP), which was founded in 1870 by the advocates of Swedish language in Finland and operates on a social liberalist platform.<sup>17</sup> The party representatives used to be delegated to the Finnish government in 1979-2015.<sup>18</sup> Secondly, according to scholarly research, Swedish-speaking population is more politically active in voter turnout, than autochthons, which was explained by the 'high social capital' in the whole group and SFP's successful recruitment strategy among voluntary associations.<sup>19</sup>

The rights of the Sami people to maintain and develop their language and culture is guaranteed by Art 17 of the Constitution. More detailed provisions, including the definition of Sami and the right to participate in the Sami parliament elections, are laid down in The Act on Sami Parliament (Laki saamelaiskäräjistä, 974/1995). According to the Act the task of the Sámi Parliament is to look after the Sámi language and culture, as well as to take care of matters relating to their status as an indigenous people and it may make initiatives and proposals to the authorities, as well as issue statements.<sup>20</sup> According to Art 3 a Sami is someone considers himself as a Sami and fulfils at least one of the additional conditions.<sup>21</sup> The Act (§§ 21 and 22) confers the right to vote and stand as a candidate to

<sup>16</sup> The Personal Data Act, §11(1)(1).

<sup>17</sup> Swedish People's Party of Finland [https://en.wikipedia.org/wiki/Swedish\\_People%27s\\_Party\\_of\\_Finland](https://en.wikipedia.org/wiki/Swedish_People%27s_Party_of_Finland) last visited 9 Apr. 19

<sup>18</sup> Ibid

<sup>19</sup> Cultural Diversity, Social Capital and Political Participation: the Case of the Swedish-speaking Population in Finland <https://ecpr.eu/Filestore/PaperProposal/bf1fffb9-0062-4bb9-9b36-bd97a5326513.pdf> last visited 9 Apr. 19

<sup>20</sup> The Act on Sami Parliament, §5(1) and (5)(2).

<sup>21</sup> Additional conditions are that 1. He himself or at least one of his parents or grandparents has learnt Sámi as his first language; 2. He is a descendent of a person who has been entered in a land, taxation or population register as



every Sami who is citizen of Finland or is a foreign Sami citizen with permanent residence in Finland. If a person considers that he or she has been unlawfully omitted from the electoral roll or that the entry on him or her in the electoral roll, the right to cast a vote can be sought through a pledge to the Election Committee or the Board of the Sami Parliament, with a possibility to appeal later to the Administrative Supreme Court (§26a-d).

The Electoral Act, Local Government Act and the Act on the Sami Parliament are relatively precise and comprehensive in describing *inter alia* the conditions to participate in elections, both through voting and candidacy. The Electoral Act and the Act on the Sami Parliament contain also provisions regarding the grounds and procedures of appeal.<sup>22</sup> However, the right to appeal under the Electoral Act refers mainly to a decision by which the election results have been confirmed.

An individual, a member of ethnic minority group for example, who regards his or her participatory rights to be violated can submit a complaint to the Parliamentary Ombudsman of Finland whose tasks are to ensure that public authorities and officials observe the law and fulfil their duties, as well as the observance of constitutional and human rights.<sup>23</sup> The Non-Discriminatory Ombudsman, on the other hand, can provide assistance to the victims of discrimination in pursuing their complaints concerning discrimination, and can in an individual cases issue a reasoned opinion.<sup>24</sup> Moreover, the traditional litigation procedures are available.

In addition to the decisions on general claims of discrimination,<sup>25</sup> the Parliamentary Ombudsman has issued also a limited number of conclusions relating to participatory rights. However, none of the decisions that are accessible (i.e. available at the Ombudsman's website) related directly to the discrimination of ethnic minorities. On the other hand, while disabled persons are generally not classified as (ethnic) minorities, it should be noted that the Parliamentary Ombudsman conducts independent, unannounced checks to the voting polls to confirm the unobstructed accessibility. The Non-Discrimination Ombudsman does not have direct statistics or decisions concerning the discrimination of ethnic minorities' participatory right either. However, according to the annual report from 2016, the Non-Discriminatory Ombudsman had received 212 complaints regarding origin-based discrimination.<sup>26</sup>

As a positive practice Finland seeks to promote participatory rights of ethnic minorities by publishing the information on elections in various languages. The general (yet relatively comprehensive) information is available online in English.<sup>27</sup> Additionally EP elections have information sheets in nine (9)

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a mountain, forest or fishing Lapp; or 3. At least one of his parents has or could have been registered as an elector for an election to the Sámi Delegation or the Sámi Parliament.

<sup>22</sup> The Election Act, Chapter 8. The Act on the Sami Parliament, Chapter 4.

<sup>23</sup> Parliamentary Ombudsman of Finland, < <https://www.oikeusasiamies.fi/en/web/guest>>, last accessed 24 Sep 2018.

<sup>24</sup> The Non-Discrimination Act, 19§

<sup>25</sup> F. ex. language rights in the context of health care (Dnro 661/4/2010) and the treatment of a Roma in an employment relationship (Dnro 260/4/06).

Annual Report 2016 of the Non-Discrimination Ombudsman of Finland, p. 15 < <https://www.syrjinta.fi/documents/10181/0/Vuosikertomus+2016/792ec552-e8ef-4beb-81f9-49b35f3720ae>>, last accessed 24 Sep 2018.

<sup>27</sup> On Elections, < <https://vaalit.fi/en/on-elections> >, last accessed 30 October 2018



different languages, including the largest minority groups of Estonians, Russians and Somalian as well as Sami language.<sup>28</sup> Information about the Municipal Elections, on the other hand, is available in 24 different languages.<sup>29</sup>

In general, Finland can be regarded as being concerned of discrimination and status of ethnic minorities. Finland has, for example, ratified the Council of Europe's Framework Convention for the Protection of National Minorities (ETS No. 157) and International Convention on Elimination of All Forms of Racial Discrimination. On the other hand, racism, hate speech and hate crimes has become an increased problem in Finland together with discrimination against Roma people and non-European-looking immigrants as described in the latest report of the Committee of the Elimination of Racial Discrimination.<sup>30</sup> The report also noted the problems relating to the participatory rights of the Sami people in the Sami Parliament as the Government of Finland retains the power to define who Sami is, and the Supreme Administrative Court has the power to determine the eligibility of individuals to vote in Sami Parliament elections.<sup>31</sup>

Positively though, governmental bodies do observe the matters relating to discrimination and according to the National Action Plan on Fundamental and Human Rights 2017-2019<sup>32</sup> are obliged to compile reports to the international bodies monitoring Finland's compliance with international conventions. Furthermore, Finland has well-established and active non-governmental organizations, such as Finnish League for Human Rights and Amnesty International, which seeks to promote the rights of the minority groups, combat against discrimination and raise awareness among citizens.

## 1.6 ESTONIA

As in Finland, Estonian legislation makes participation in political decision-making depend only on a person's citizenship. Today, voter lists for municipal elections may include all Estonian and other EU member states citizens, along with citizens of a non-EU Member State or stateless persons residing in Estonia on the basis of a long-term residence permit or the right of permanent residence (including the "undefined" citizens), aged over 16 (except for those convicted of a criminal offence and imprisoned until the election day). European Parliament electoral roll includes Estonian and other EU member states citizens, aged at least 18 years (with an identical clause on serving a sentence in a custodial institution on a criminal conviction). Lastly, the right to vote for Riigikogu (National Parliament) belongs only to Estonian citizens, leaving around 7%<sup>33</sup> of "undetermined" Estonian citizens (mostly Russian by

<sup>28</sup> Information about European Elections in different languages, < <https://vaalit.fi/en/information-about-european-elections-in-different-languages>>, last accessed 2 Sep 2018.

<sup>29</sup> Information about the Municipal Elections of 2017 in different languages, < <https://vaalit.fi/en/information-about-the-municipal-elections-in-different-languages>>, last accessed 24 Sep 2018.

<sup>30</sup> Committee on the Elimination of Racial Discrimination, *Concluding observations on the twenty-third periodic report of Finland*, CDER/C/FIN/CO/23, 8 June 2017.

<sup>31</sup> *ibid*, para 14. The problems relating to the treatment of the Sami minority has been acknowledged also by the UN Human Rights Committee in its concluding observations to Finland's compliance with the International Covenant on Civil and Political Rights. See, for example, Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant Sixth periodic reports of States parties: Finland*, 8 August 2011, CCPR/C/FIN/6.

<sup>32</sup> National Action Plan on Fundamental and Human Rights < <http://julkaisut.valtioneuvosto.fi/handle/10024/79849> >, last accessed on October 30, 2018

<sup>33</sup> Demography of Estonia <http://www.stat.ee/en>



origin) beyond the realm of national decision-making.

The right to stand as a candidate for European Parliament elections is given to: 1) a citizen of European Union who has attained at least 21 years of age by election day; 2) his or her permanent residence is in Estonia, i.e. the address details of his or her residence have been entered in the population register; 3) he or she has not been deprived of the right to stand as a candidate in his or her home Member State; 4) he or she is not serving sentence in a penal institution or in active service in Defence Forces. The right to stand as a candidate for municipal elections is given to every Estonian citizen and citizen of the European Union who has the right to vote, who has attained 18 years of age by the last day for the registration of candidates and whose permanent residence is located in the corresponding rural municipality or city not later than on 1 August of an election year (except for those enrolled in Defence Forces or serving a prison sentence).

The Constitution of Estonia postulates the explicit prohibition of discrimination on any ground (art. 12). The conventional anti-discrimination provisions of the Constitution are detailed in the following framework: the Gender Equality Act<sup>34</sup>, the Chancellor of Justice Act<sup>35</sup>, and the Equal Treatment Act<sup>36</sup>. The two latter acts were specifically amended/adopted to transpose the requirements of the EU anti-discrimination Directives 2000/43 and 2000/78.

The European Commission against Racism and Intolerance (ECRI), a Council of Europe (CoE) body, has repeatedly recommended that the Estonian authorities further strengthen the Equal Treatment Act by prohibiting discrimination based on language and citizenship<sup>37</sup>. However, there are some concerns regularly raised in the context of official Estonian language proficiency requirements for both political and social integration of the Russophone minority, especially with regard to employment in both public and private sectors, where employers can put legitimate requirements of speaking Estonian. According to the Estonian Law on the Language, the state may regulate the language usage in the scope of 'public interest', i.e. 'public safety, public order, public administration, education, health, consumer protection and occupational safety'<sup>38</sup>. Amnesty International experts consider this regulation putting unjustified pressure on private employers, making them require Estonian language certificates from customer service job seekers even in mostly Russian-speaking Ida-Virumaa region<sup>39</sup>. In the course of the 2007 national survey, 23 % of the respondents of Russian minority origin claimed to have had an experience

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<sup>34</sup> Estonia, Gender Equality Act (Soolise võrdõiguslikkuse seadus), RT I 2004, 27, 181; entered in force 1 May 2004.

<sup>35</sup> Estonia, Chancellor of Justice Act (Õiguskantsleri seadus), RT I 1999, 29, 406; the Chancellor of Justice became an equality body from 1 May 2004.

<sup>36</sup> Estonia, Equal Treatment Act (Võrdse kohtlemise seadus), RT I 2008, 56, 315; entered in force 1 January 2009.

<sup>37</sup> CoE, European Commission against Racism and Intolerance (2010), Report on Estonia (4th monitoring cycle), adopted 15 December 2009, published 2 March 2010, ECRI (2010), Section 51; CoE, European Commission against Racism and Intolerance (2015), Report on Estonia (5th monitoring cycle), adopted 16 June 2015, published 13 October 2015, ECRI (2015), Section 13.

<sup>38</sup> Law on the Language <https://www.riigiteataja.ee/en/eli/506112013016/consolide>

<sup>39</sup> Estonia: Linguistic minorities in Estonia: Discrimination must end <https://www.amnesty.org/download/Documents/76000/eur510022006en.pdf>

of discrimination within the last three years; 42 % cited ethnicity and only 13 % cited citizenship as a ground of their experience of unequal treatment<sup>40</sup>.

A political party, aiming to gain popularity amongst a certain ethnic minority is a quite rare thing for EU member states, anyhow the Centre Party of Estonia (regarded to be a centrist, social-liberal and populist) seems to be the case in a divided community. It is one of the two largest political parties in Estonia and currently has 27 seats in the Estonian Parliament. The party was founded on 12 October 1991 from the basis of the Popular Front of Estonia after several parties split from it. The Centre Party has become by far the most popular party among Russians in Estonia, being supported by up to 75% of ethnic non-Estonians<sup>41</sup>, but at the same time is also considered to be inclusive and claims to prioritize strategic interests of Estonian state. It should also be noted that the earlier support for Russian “purely” ethnic parties has significantly declined<sup>42</sup>.

Cases of discrimination on ethnic ground can be investigated under criminal procedures, administrative court procedures (e.g. complaints against the action of an official or state/municipal institution) or civil court procedures (e.g. labor disputes). Discrimination-related cases are solved on the basis of general rules and standards, except for shared burden of proof (now imposed both on the plaintiff and the respondent) (Country report, 2014)<sup>43</sup>. The Chancellor of Justice (in relation to the public sector) and the Commissioner for Gender Equality and Equal Treatment (in relation to both the public and private sectors, as falls within the Commissioner’s competence) are entitled to conduct ombudsman-like procedures, with legally non-binding results.

As a cornerstone of Estonian digital democracy, e-voting first faced some heavy criticisms abroad (mainly based on security and double-voting prevention issues), but gradually gained recognition from OSCE/ODIHR as a safe and convenient tool<sup>44</sup> (with a special value for the electoral involvement of people with disabilities). From 10th to 7th day before election day at least one polling place is also open in every county centre where all voters can vote in advance, regardless of their voting district of residence. It is also possible to fill in the paper ballot at home (due to health issues or other solid reason)<sup>45</sup>.

The accessibility of information on voting procedures for Russian speakers in Estonia has been in focus for a long time. As of today, the National Electoral Committee website is available in Estonian, English, and Russian, and some general information about internet voting is available there (as well as on the national e-governance portal). However, according to the OSCE/ODIHR, during the national parliamentary elections of 2015, voting instructions sent to voters, as well as information in polling

<sup>40</sup> Lagerspetz, M. et al. (2007), *Isiku tunnuste või sotsiaalse positsiooni tõttu aset leidev ebavõrdne kohtlemine: elanike hoiakud, kogemused ja teadlikkus*, Tallinn, 2007, p. 25. See also section 2.3.b for more information on discrimination on the ground of language.

<sup>41</sup> Freedom House. Report on Estonia, 2016 <https://freedomhouse.org/report/nations-transit/2016/estonia> last visited 28 Sep 2018

<sup>42</sup> p. 49-50. <https://www.mobt3ath.com/uploade/book/book-2301.pdf> last visited 28 Sep 2018

<sup>43</sup> Country report. Non discrimination. Estonia (pp. 7) < <https://www.equalitylaw.eu/downloads/4400-estonia-country-report-non-discrimination-2017-pdf-1-32-mb> > last visited 29 October 2018

<sup>44</sup> Estonia Parliamentary elections, 1 March 2015 (pp. 5) < <https://www.osce.org/odihr/elections/estonia/160131?download=true>

<sup>45</sup> Voting at home <https://www.valimised.ee/en/estonian-elections-nutshell/voting-home> last visited 28 Sep 2018

stations and on ballots, were only in Estonian, which certainly remains to be an issue of great concern. At the same time, Internet voting in Estonia is based on WAI (Web Accessibility Initiative)<sup>46</sup> principles, which means that the e-voting web-resource is equipped with text synthetizing tool for people with impaired vision.

According to the Council of Europe estimates, there are approximately 1,250 Roma living in Estonia (0.1% of the population)<sup>47</sup>, who fall into the scope of general social inclusion strategy, particularly in the four key areas of education, employment, healthcare and housing. As of 2011, there were only 9 Roma associations functioning in the country<sup>48</sup>. Due to the personal data protection regulations, there is no official statistics on the number of Roma people participating in the political decision-making in Estonia. According to the population census, a little less than half of the Roma had Estonian citizenship followed by undetermined citizenship and citizenship of another country<sup>49</sup>.

## 1.7 LATVIA

There are many significant original points where more attention needs to be paid. For example, voting rights in local elections have never been granted to non-citizens in Latvia, whereas Estonia has granted voting rights to non-citizen residents. Efforts to amend the Citizenship Law in 2017 to allow children of non-citizen parents to automatically have Latvian citizenship did not succeed, and non-citizen children continue to be born in Latvia (in contrast to Estonia where all children born after 1992 are Estonian citizens regardless of their parents' status).

With regard to municipal and city council elections in Latvia, according to The City Council and Municipality Council Election Law (as in force on 1 January 2014), they are held every four years. The right to vote had been granted to: the citizens of Latvia; the citizens of the European Union who are not citizens of Latvia but are registered on the Population Register; the persons who have reached the age of 18 on the day of the election, have been registered on the Voters' Register and filed with their place of residence on the administrative territory of the respective local government at least 90 days before the day of the election, or persons who own real estate which is filed with the territory of the respective local government according to the procedure set out by law and do not fall under any of the limitations. The aforementioned set of limitations includes those who have been adjudged incompetent according to the procedure stipulated by law; who are undergoing punishment in penal institutions; and those who have no right to vote in European Union member states whereof they are citizens.

The right to stand as a candidate on local elections belongs to Latvian and EU citizens, aged over 18, who are filed with the Population Register, had lived on the respective territory for at least 10 months, or worked for at least 4 months, or own real estate filed in the territory in question. Article 9

<sup>46</sup> Making Web Accessible <https://www.w3.org/WAI/> last visited 28 Sep 2018

<sup>47</sup> Roma integration in Estonia [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-and-eu/roma-integration-eu-country/roma-integration-estonia\\_en#nationalstrategyforromaintegration](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-and-eu/roma-integration-eu-country/roma-integration-estonia_en#nationalstrategyforromaintegration) last visited 28 Sep 2018

<sup>48</sup> National set of policy measures for Roma integration in Estonia [https://ec.europa.eu/info/sites/info/files/roma\\_estonia\\_strategy\\_en.pdf](https://ec.europa.eu/info/sites/info/files/roma_estonia_strategy_en.pdf)

<sup>49</sup> Estonia country thematic study on the situation of Rome <http://fra.europa.eu/en/country-data/2013/country-thematic-studies-situation-roma> last visited 28 Sep 2018



disenfranchises from standing as candidates people who serve sentences in penitentiaries, have committed a grave/especially grave crime earlier; and those who had been active in the Communist Party of Latvia after 13 January 1991 or have anytime belonged to the salaried state security or intelligence staff of the USSR or another country.

Finally, the European Parliament elections process is defined by the Law on Elections to the European Parliament, as of 31 October 2013<sup>50</sup>. The voters are citizens of Latvia or other EU MS, residing in Latvia, aged over 18, and not restricted from voting in the country of origin, whereas the minimum age requirement to run as candidate is 21 years old. When it comes to voting in European Parliament elections, convicted person have active voting rights, but however, cannot run as a candidate if s/he: is serving a sentence in prison; is convicted of a severe crime, except when the person is rehabilitated; has been subjected to compulsory medical treatment or dismissed without applying such a compulsory measure; is punished with prohibition to stand as a candidate for Parliament, the European Parliament, or local elections, except if the person is deemed to be rehabilitated or the penalty is set aside/erased.

In August 2018 the UN Committee on the Elimination of Racial Discrimination had published its concluding observations on the implementation of the 1965 UN Convention on the Elimination of All Forms of Racial Discrimination in the Republic of Latvia for the period from 2008 to 2016. Along with admitting certain progress, the Committee has issued a number of recommendations to improve the integration of non-citizens, particularly: to consider allowing non-citizens who are long-time permanent residents to participate in local elections; prevent discrimination of these individuals in access to public services; continue to remove any remaining barriers to naturalization and facilitate naturalization for individuals wishing to partake in it; intensify efforts to ensure that all children have access to a nationality at birth, including by successfully amending the Citizenship Law to automatically grant citizenship to children born in Latvia who would otherwise be without nationality<sup>51</sup>.

The debates are still hot around the issues the electoral restrictions imposed on people who had alleged ties with communists. In 2006, the Constitutional Court had to deal with an application by a group of MPs claiming that provisions of the particular laws on Local Elections limited persons to stand as candidates due to their past membership of the USSR-related organisations mentioned is contrary to the Constitution and other laws. Anyhow, the Court referred to its earlier case-law and noted that contested provisions do provide for restrictions of voting rights of those persons who acted against a restored democratic regime after 13 January 1991. The Court also referred to obligations derived from EU law, including the EU Charter of Fundamental Rights as well as the *Ždanoka* case<sup>52</sup> (the latter derived from a pledge about the right to be elected despite the communist past, but the ECHR did not find any violations in Latvian laws). The other noteworthy point is that the official website of the Central Election Commission of Latvia provides information and core legislation on the electoral process also in English

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<sup>50</sup> Law on Elections to the European Parliament <https://www.cvk.lv/pub/public/30380.html> last visited 28 Sep 2018

<sup>51</sup> Concluding observations sixth to twelfth periodic reports of Latvia [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/LVA/CERD\\_C\\_LVA\\_CO\\_6-12\\_32235\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/LVA/CERD_C_LVA_CO_6-12_32235_E.pdf) last visited 28 Sep 2018

<sup>52</sup> Chamber Judgement in the Case *Zdanoka vs. Latvia* < <https://hudoc.echr.coe.int/eng-press#%22itemid%22:%22003-1031666-1067170%22> > last accessed on October 30<sup>th</sup>, 2018

and in Russian.<sup>53</sup> The Latvian government had recognized Latgalian and Livonian languages as indigenous<sup>54</sup>, while Russian (spoken as first language by nearly one third of population) and other languages are considered foreign.

In line with ‘Europe 2020: A strategy for smart, sustainable and inclusive growth’, the Latvian government has adopted National identity, civil society and integration policy guidelines 2012 – 2018, which contain a set of policy measures addressed specifically to fostering Roma community social inclusion.<sup>55</sup> Though the overwhelming majority of Latvia’s Roma are recognized as citizens, they are still acutely marginalized and suffer disproportionately from discrimination in areas such as employment and education, and face racist violence. In many cases, efforts to promote equality and participation among Roma have not been effective in resolving their continuous exclusion, with a need for greater involvement of Roma representatives in the implementation of public projects. The majority of Latvia’s Roma are city dwellers, residing in the cities of Riga, Jelgava and Ventspils, where they often live in overcrowded housing and are affected by social exclusion. Roma children have been at times placed in separated schools or classes, with added problems relating to poor school attendance and low educational attainment. Despite initiatives to promote their school attendance and achievement, early dropout remains a challenge and instances of segregated education continue, and the proportion of Roma people in prisons is still disturbingly high.<sup>56</sup>

## 1.8 LITHUANIA

According to Art. 34 of the Constitution of Lithuania, adopted in 1992, the right to vote belongs to all the citizens, who have reached 18 years old, except for those declared to be legally incapacitated by the court. General legal framework on holding elections and referenda is further detailed in particular laws, specifically: Law on Elections to the Seimas (as last amended on 22 March 2016), Law on Presidential Elections (as of 14 May 2015), Law on Elections to the European Parliament (as of 16 June 2015) and Law on Elections to Municipal Councils (as of 30 June 2016).

As we already mentioned earlier, opposite to Latvia and Estonia, after 1991 Lithuania did not introduce the politically and socially limited “undetermined” citizenship status for those who resettled in the country after the Second World War. Thus, the right to elect municipal councilors today can be enjoyed by all permanent residents of the respective municipality, who are 18 years of age on polling day. The permanent resident status, according to the Lithuanian Law on the Legal Status of Aliens<sup>57</sup>, is applicable

<sup>53</sup> Central Election Commission of Latvia <https://www.cvk.lv/pub/public/28333.html> last visited 28 Sep 2018

<sup>54</sup> Constitution of Latvia <http://www.saeima.lv/en/legislation/constitution> last visited 28 Sep 2018

<sup>55</sup> [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-and-eu/roma-integration-eu-country/roma-integration-latvia\\_en#national-roma-integration-strategy](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-and-eu/roma-integration-eu-country/roma-integration-latvia_en#national-roma-integration-strategy)

<sup>56</sup> See: World Directory of Minorities and Indigenous Peoples <https://minorityrights.org/country/latvia/> last visited 28 Sep 2018; Concluding observations sixth to twelfth periodic reports of Latvia [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/LVA/CERD\\_C\\_LVA\\_CO\\_6-12\\_32235\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/LVA/CERD_C_LVA_CO_6-12_32235_E.pdf) last visited 28 Sep 2018

<sup>57</sup> Law on the Legal Status of Aliens, < <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/d7890bc0fa2e11e4877aa4fe9d0c24b0?jfwid=q86m1vvqg> >, last accessed October 30<sup>th</sup>, 2018



to any citizen of the Republic of Lithuania, EU member state or any other person who, with not less than 90 days before polling day, declared his place of residence within the territory of that municipality pursuant to legal acts of the Republic of Lithuania. The right to vote for the European Parliament elections is limited to legally capable citizens of Lithuania and other EU member states, aged over 18, while the right to vote for the Seimas (national parliament) belongs exclusively to the citizens of Lithuania who are older 18.

The Constitution of Lithuania proclaims that “citizens who belong to ethnic communities shall have the right to foster their language, culture and customs”<sup>58</sup>. The term “ethnic communities” used by the Lithuanian authorities has been criticized being too vague by the advisory committee on the Framework Convention for the Protection of National Minorities (FCNM) in February 2003.<sup>59</sup> In order to prevent the discrimination on any ground, as well as to ensure that everyone is able to enjoy social, economic and political rights equally, the government has adopted a number of relevant laws. The Laws on Citizenship, on the State Language, on Education, on Provision of Information to the Public, on Religious Communities and Associations, on Political Parties, on the Fundamentals of Protection of the Rights of the Child, and other legal acts guarantee and regulate protection of the rights of people belonging to national minorities<sup>60</sup>.

With a view to achieving the objective in coordination of the State policy in the field of national minorities as specified in the Regulations, the Ministry of Culture was implementing the Strategy for Development until 2015 of the National Minorities Policy and the Action Plan for Integration of the Roma community into the Lithuanian society for 2012–2014. It is worth pointing out that only the Lithuanian government has developed a separate document for Roma integration, while in Estonia and Latvia the sets of measures for Roma people integration are components to common strategies for vulnerable communities. In 2015 Lithuania had established the Department of National Minorities since the previous institution (the Council of National Minorities) had proven inefficient. The department was mandated to streamline the implementation of national minorities’ policies, further develop the Government’s engagement with the Roma, and to be closely involved in discussions on the draft Law on National Minorities<sup>61</sup>.

<sup>58</sup> The Constitution of Lithuania <http://www.lrkt.lt/en/about-the-court/legal-information/the-constitution/192>

<sup>59</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM), February 2003, Opinion on Lithuania: <http://www.gencat.cat/llengua/noves/noves/hm04tardor/docs/kallonen.pdf>

<sup>60</sup> See Law on Citizenship <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/7d4f43a1d63b11e69c5d8175b5879c31?jfwid=-ji9gtnhdw> ; Law on the State Language <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.21941?jfwid=rivwzvvpvg> ; Law on Education <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/07c2ecf0168711e6aa14e8b63147ee94?jfwid=q8i88lumk> ; Law on Provision of Information to the Public <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/2865241206f511e687e0fbad81d55a7c?jfwid=1clcwosx33> ; Law on Religious Communities and Associations <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.385299?jfwid=16j6tpgu6w> ; Law on Political Parties <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/09450a307a1c11e4a8a7b07c53dc637c?jfwid=rivwzvvpvg> ; Law on the Fundamentals of Protection of the Rights of the Child <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.382481?jfwid=q8i88lquy>

<sup>61</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23376&LangID=E>



Lithuania has three political parties based on ethnicity – two of them have pro-Russian aspirations, and another one seeks support from the Polish minority. Until 1996 electoral reform, there had been a provision in the electoral legislation which required all parties to gain at least 4% of the vote to participate in parliament, minority ethnic parties needed only to pass a 2% threshold<sup>62</sup>. Earlier, in 1994 Lithuania passed a law on public organizations that separated governmental organizations and political parties and henceforth only political parties could participate in elections. As a result, the Union of Poles in Lithuania urgently convened a general congress during which it was decided to set up a political party. After collecting 739 signatures of the founders on 28th of August, 1994 the founding congress was organized and on 23rd of October, 1994 Lietuvos lenkų rinkimų akcija (LLRA, Electoral Action of Poles in Lithuania) was registered with Jan Sienkievič being elected as a Chairperson. In 2016 Lietuvos lenkų rinkimų akcija (LLRA, Electoral Action of Poles in Lithuania) changed its name and attribution to Lietuvos lenkų rinkimų akcija-Krikščioniškų šeimų sąjungos (LLRA-KŠS, Electoral Action of Poles in Lithuania – Christian Families Alliance).

Until 2008, LLRA-KŠS was represented in the Parliament only by members elected in single-member constituencies. In 2012 LLRA-KŠS for the first time managed to crossover a 5 percent electoral barrier and thus formed their own parliamentary group. Since then LLRA-KŠS always exceeds the 5 percent barrier (Kazenas, 2017).<sup>63</sup> Another pro-Russian-party, the Lithuanian People's Party, in 2016 failed to be represented in the Seimas, reaching just 1.01 percent of votes<sup>64</sup>.

According to Freedom House, after the 2015 local elections, the coalition of EAPL and Russian Alliance retained a strong grouping (second place, 10 out of 51 seats) in the Vilnius council and two mayoralties in the Vilnius region and Šalčininkai municipalities. However, important issues regarding language policy remain unresolved. In May 2016 the Seimas postponed a bill that would enable the use of the Latin letters q, w, and x (not available in the Lithuanian alphabet) on Lithuanian ID cards and passports, which would allow Polish and other citizens to use preferred name spellings. The State Commission of the Lithuanian Language opposes the bill.<sup>65</sup>

The community of Roma people in Lithuania counts around three thousand people, but the statistical data of their turnout and general involvement in political life of the country remains under cover as subject to personal data. Current issues of the community, according to the recent report of Lithuania on its implementation of the International Covenant on Civil and Political Rights, include, but are not limited to: discrimination, poverty, low educational attainment, large-scale unemployment, inadequate standards of living, limited access to national health insurance and little chances for the violator to be officially accused<sup>66</sup>. The Department of National Minorities had developed 26 indicators about the Roma

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<sup>62</sup> Martinaitis, Ž. (2012). Explaining Electoral Reforms in Lithuania. *Journal of Baltic Studies*, 43(3), 389–400. doi:10.1080/01629778.2012.654623

<sup>63</sup> Kazenas, G. Lithuanian Polish Political Party in Parliamentary Election 2016 in Lithuania. *Political Preferences 2017*, vol. 14: 87-98. DOI: 10.6084/m9.figshare.5216194 journals.us.edu.pl/index.php/PP

<sup>64</sup> Lithuania. *Nations in Transit*, 2017. <https://freedomhouse.org/report/nations-transit/2017/lithuania>

<sup>65</sup> Lithuania. *Nations in Transit*, 2016. <https://freedomhouse.org/report/nations-transit/2016/lithuania>

<sup>66</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23376&LangID=E>



community, which it monitored regularly. The Roma community mostly live in the capital city of Vilnius, where they faced restrictions related to housing. Since more than 20 per cent of the Roma are young people, the authorities had focused on educational activities for them<sup>67</sup>.

In Finland the right to participate in elections, both as a voter and a candidate, has a relatively strong and non-discriminatory legislative basis. However, due to the prohibition of collecting data on race or ethnic origin as laid down in the Personal Data Act, no exact statistics concerning the participation of ethnic minorities in the elections are available. Nevertheless, it might be said that in general the challenges regarding the electoral participation of (ethnic) minorities are more attached with the general problems of racism and prejudices rather than the failures of guaranteeing the equal and non-discriminatory rights in legislation.

That being said it should also be noted that Finland has received criticism from the International human rights monitoring bodies regarding the failure to guarantee properly the right of the indigenous Sami people self-determination. Currently the status of the Sami people within Finland as well as the consideration of who is eligible to vote in the Sami Parliament elections is established in the State legislation without due consideration of the Sami's rights as an indigenous people.

Estonia's approach to deal with the Russian-speaking minority often faced criticism from abroad as well as domestically, but continues to search for compromises between prioritizing national security interests and ensuring human rights. So far, the integration of post-Second World War migrants continues, and the number of "undetermined" citizens tends to decline steadily, while the now-ruling former Russophile Centrist party demonstrates moderate balance between seeking support from the largest ethnic minority and complying with middle class liberal aspirations.

Meanwhile the Latvian policy towards compatriots resettled in the Soviet era and their descendants tends to be the most restrictive and faces a number of challenges on compliance to international human rights standards. The status of the Russian diaspora who struggles to comply with requirements to Latvian citizenship is close to complete isolation from political decision-making process - even at the municipal level -, while the ethnic-based Russian party every year wins more electoral support from sceptical, although otherwise "naturalized" citizens.

At the time of restoration of independence, the Lithuanian government has selected the softest approach towards the future political future of national minorities, perhaps owing to the relatively small number (5%) of earlier relocated foreigners. The recent elections to the national parliament and local councils reflect the rising popularity of pro-Polish and pro-Russian common agenda, which could be explained not only by the desire of the respective ethnic minorities to amend mono-linguistic internal policies, but also the common trend for euroscepticism in the Eastern European region.

All three Baltic states are initiating steps towards the integration and political involvement of Roma people, which cannot be clearly assessed due to personal data protection regulations, but anyhow are often criticized by international organizations and funds as ones having little to no efficiency.

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<sup>67</sup> Idem