

The London School of Economics and Political Science

Why keep protecting the few without external incentives?
Compliance with minority rights norms after attaining IO
membership in Latvia and Georgia

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of the London School of Economics for the degree of Doctor of
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Declaration

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Abstract

While research on developments in minority rights field in the South and East European countries has shown that political incentives in the form of International Organization (IO) membership conditionality was a driving factor in facilitating transposition of minority rights norms into domestic legislation, compliance with IO recommendations post-conditionality remains a puzzle. This thesis contributes to the broader literature on 'Europeanisation' by first, examining transposition of and compliance with minority rights norms once the main 'carrot' of membership conditionality is consumed. Secondly, it presents a comparative perspective on adoption of minority rights reforms in EU and non-EU countries (Latvia and Georgia respectively). Last, by incorporating analysis of both 'top-down' and 'bottom-up' processes of change, it contributes to the emerging research on the role of 'bottom-up' processes in Europeanization of domestic policies.

This study shows that the influence of IOs on states after accession is very limited. However, it is not defunct. Adoption of the FCNM in both countries is explained in terms of the ruling government's reputational concerns to safeguard an image of being 'good European citizens.' In turn, reputational concerns, when and if present, were only effective to the extent of forging formal (as opposed to behavioural) compliance. Behavioural compliance, on the other hand, was tamed by the ruling government's stance towards minorities and domestic political considerations (including domestic opposition to reforms). Importantly, this study also shows that bottom-up processes in the post-accession period take place indeed. While their effects on forging positive changes are limited, these processes are more influential in Latvia, rather than in Georgia.

The study concludes that legacies of the communist past and their geographical location make the states in question subject to (sometimes) conflicting norms. It thus suggests, in addition to analyzing the influence of IO membership, the further research in the area should take the influence of other regional states/players into consideration.

Table of Contents

List of abbreviations	9
List of Figures, Graphs and Tables	10
CHAPTER I: Introduction	12
1 Minority studies pre- and post-Europeanisation: focus, methods, findings	16
2 International Organisations: mechanisms of influence	17
2.1 The OSCE: open membership, mutual responsibilities	17
Copenhagen Document	18
2.2 The CoE: ‘soft’ conditionality, comprehensive monitoring mechanisms	19
Framework Convention for the Protection of National Minorities	21
2.3 The EU: ‘strict’ conditionality, lack of monitoring mechanisms	22
3 ‘Conditionality’: main tool for change	23
3.1 ‘Post-conditionality’: the puzzle	27
4 Europeanization vs. Minority Rights: Theoretical approaches and methods of study	31
4.1 Definitions: Europeanization as ‘EU-ization’ and beyond	31
4.2 Geographic focus: from EU member states to EU neighbours	32
4.3 Methods of study: ‘Top-down’ vs. ‘bottom-up’ Europeanization	33
4.4 Theoretical approaches: Rational Institutionalism & Constructivism	34
Rational institutionalist approach	34
Constructivist approach	35
5 Minority rights practices post-conditionality	38
5.1 ‘Top-down’ Europeanisation	38
5.2 ‘Bottom-up’ Europeanisation	41
6 Case selection	46
7 Structure of thesis	52
CHAPTER II. Theoretical Framework, Methods	65
1 Conceptual Framework: Europeanization and Compliance	65
1.1 Compliance – dependent variable (DV)	66
1.2 Europeanization	71
‘Top-down’ Europeanization	71
‘Bottom-up’ Europeanization	75
2 Research hypotheses – independent variables (IV)	77
2.1 Why do states comply: ideational factors	77
Ruling government’s orientation/identification	77
Domestic salience of norms among the general population	78
2.2 Why do states comply: rationalist factors	80
Domestic adjustment costs	80
Alternative incentives mechanisms	82
2.3 Change might be a result of a ‘pull’ from bottom-up	83
3 Operationalization of Independent Variables	83
3.1 European orientation/identification	83
3.2 Salience of norm	84
3.3 Domestic adjustment costs	86
3.4 Alternative leverage mechanisms	86
4 Methodology and Data Collection	86
4.1 Process-tracing	86
4.2 Data collection	88
Interviews	88
Monitoring reports: international and national	89
5 Case Selection	92
5.1 Systemic differences: International obligations and incentives	93
Availability of external incentives	93

IO membership.....	97
5.2 Within-systemic differences: size of minorities, mode of protection, representation	98
Size of minorities	98
Mode of protection.....	99
Representation.....	100
5.3 Cross-country similarities	101
Soviet past, European identity.....	101
[Lack of] salience of minority rights.....	103
Russia: as a ‘kin-state’ and/or a regional power	104

CHAPTER III. Compliance with the FCNM in Georgia: *International obligations, Preferences and Incentives*.....106

1 Minority rights in Georgia: International obligations, nature of challenges, post-accession changes	108
1.1 International obligations.....	108
1.2 Nature of challenges: secessionist movements, nation-building policies, socio-economic hardships	109
1.3 Post-accession changes	112
2 ‘Top-down’ processes	112
2.1 Domestic political system: an overview	112
Party system: loose multiparty system.....	113
Party ideological orientation	115
2.2 Nation-building policies: attitudes towards minorities	116
1990 – 1992: exclusive ethnonationalism	116
1992 – 1999: co-optation of minorities	118
2003 – to date: ‘unification’	121
2.3 European/Western orientation/identification	123
Gamsakhurdia: Western/European outcast	124
Shevardnadze: a ‘balancer’	125
Saakashvili’s ‘W-turn’: re-orientation towards the West.....	127
Margvelashvili: new aspiration for step-by-step integration with the EU	130
3 ‘Bottom-up’ processes	131
4 Comparative conclusion: Process tracing analysis	132
4.1 Georgia’s Europeanness: meaning.....	133
4.2 Credibility of EU/NATO membership.....	134
4.3 Country-level factors: Implication for implementation of the FCNM.....	138
5 Ratification of the FCNM: case study.....	140

CHAPTER IV. Compliance with Linguistic rights, Religious rights, and Non-discrimination provisions in Georgia147

1 Linguistic rights: <i>Recommendations, Challenges, Compliance</i>	149
1.1 International Recommendations.....	149
1.2 The nature of challenge.....	151
Domestic adjustment costs	152
Salience of norms among the population	153
1.3 Post-accession compliance with recommendations on Linguistic Rights.....	154
Formal compliance: legislative and policy changes.....	154
Behavioural Compliance: Implementation of legal and policy changes	156
Access to Education (AE).....	156
AE.1 – providing equal access to higher education	156
AE.2 – Introduction bilingual education	158
Improving Teaching of Georgian (TG).....	161
TG.1 – Teaching of Georgian in general education institutional establishments	161
TG.2 – Teaching of Georgian in preschool education	163
Improving Teaching in Minority Languages (TM).....	165
Comparative Conclusion: Compliance with recommendations on linguistic rights	165
2 Religious Rights: <i>Recommendations, Challenges, Compliance</i>	167

2.1	International recommendations.....	167
2.2	The nature of challenge.....	168
	Domestic adjustment costs.....	170
	Saliency of norms.....	174
2.3	Post-accession compliance.....	177
	Formal Compliance: Legislative and policy changes.....	177
	Legal Status.....	177
	Secularizing Education.....	179
	Restitution of Religious Properties.....	180
	Behavioural compliance: implementation of legal and policy changes.....	181
	‘Registration as religious organizations’.....	181
	‘Equal legal status and protection’.....	182
	Permission of construction of buildings for religious organizations.....	185
	Restitution of religious properties.....	186
	Comparative conclusion: Compliance with religious rights.....	187
3	Anti-discrimination provisions: Recommendations, challenges, compliance.....	189
3.1	International Recommendations.....	189
3.2	The nature of challenge: domestic adjustment costs & saliency of norms.....	190
3.3	Post-Accession compliance.....	192
	Formal Compliance: Legislative changes.....	192
	Behavioural Compliance: Implementation of legal provisions.....	193
	Comparative Conclusion.....	194
4	Comparative Analysis.....	194
4.1	Importance of issue-specific factors.....	195
4.2	Importance of country-level factors.....	196
CHAPTER V. Compliance with the FCNM in Latvia: <i>International obligations, Preferences and Incentives</i>.....		200
1	Minority rights in Latvia: International obligations, nature of challenges, post-accession changes.....	201
1.1	International obligations.....	201
1.2	Nature of challenges: demographics, identity, ‘kin-states’.....	202
1.3	Post-accession changes.....	206
2	‘Top-down’ processes.....	207
2.1	Ruling governing coalitions: an overview.....	208
	Party political representation in the Saeima.....	208
	Party ideological orientation.....	210
2.2	European orientation/identification.....	214
3	‘Bottom-up’ processes.....	216
4	Comparative conclusion: process tracing analysis.....	217
4.1	1 st cluster: the (XIV) government of Ivars Godmanis.....	218
4.2	2 nd cluster: the (XVI) government of Valdis Dombrovskis (I).....	218
4.3	3 rd cluster: the (XVII) government of Dombrovskis (II).....	219
4.4	4 th cluster: the (XVIII) government of Laimdota Straujuma.....	220
4.5	Comparative conclusion: changes across four clusters.....	222
4.6	Latvia’s Europeanness: Meaning.....	224
4.7	‘Tit-for-tat’ trajectory of domestic politics.....	224
4.8	Country-level factors: implication for implementation of the FCNM.....	231
5	Ratification of the FCNM: case study.....	232
CHAPTER VI. Compliance with Linguistic Rights and recommendations regarding the issue of Citizenship in Latvia.....		239
1	Citizenship Policies: <i>Recommendations, Challenges, Compliance</i>.....	240
1.1	International Recommendations post-accession.....	240
1.2	The nature of challenge.....	242
	Background: pre-accession changes.....	242
	Saliency of norms.....	244

Domestic adjustment costs	246
1.3 Post-accession compliance with international recommendations on citizenship policies	248
Formal Compliance	248
Behavioural Compliance	250
1.4 Comparative conclusion: Process-tracing analysis	254
Naturalisation provisions	255
Non-citizenship: a non-issue?	255
Naturalisation stall: Latvia's 'Brighton Beach' case?	265
Integration provisions	272
Voting rights	272
Narrowing the gap between the rights	275
2 Linguistic policies: Recommendations, Challenges, Compliance.....	276
2.1 International Recommendations post-accession	276
2.2 The nature of challenge	279
Background: pre-accession changes	279
Domestic adjustment costs	283
Salience of norms	284
2.3 Post-accession compliance with international recommendations on linguistic policies	286
Formal Compliance	286
Behavioural Compliance	286
2.4 Use of languages in public and private	286
(a) Training of Latvian language	286
(b) Teaching of minority languages	290
(c) Language provisions in labour market	293
2.5 Maintaining the use of minority language	295
(a) in public, including media	295
(b) in relation to administrative authorities	296
2.6 Comparative conclusion: Process-tracing analysis	297
CHAPTER VII. Conclusion	304
Bibliography	322
Appendix A: The number of legislative and policy changes in Latvia, May 2004 - May 2015	
Appendix B: Ethnic map of Georgia	
Appendix C: List of interviews	

List of abbreviations

ACFC	The Advisory Committee on the Framework Convention for the Protection of National Minorities
CEES	Central and Eastern European States
CoE	The Council of Europe
CommDH	The Council of Europe Commissioner for Human Rights
DCFTA	The Deep and Comprehensive Free Trade Agreement
EaP	EU's Eastern Partnership initiative
ECHR	The European Convention on Human Rights
ECMI	European Centre for Minority Issues
ECOSOC	The United Nations Committee on Economic, Social and Cultural Rights
ECRI	The European Commission against Racism and Intolerance
ECRML	The European Convention for Regional or Minority Languages
ECtHR	The European Court of Human Rights
ENP	The European Neighbourhood Policy
EP	The European Parliament
EU	The Council of Europe
FCNM	The Framework Convention for the Protection of National Minorities
GOC	The Georgian Orthodox Church
HCNM	The High Commissioner on National Minorities
ILO	The International Labour Organization
IOs	International Organisations
IRI	International Republican Institute
MES	Ministry of Education and Science
MFA	Ministry of Foreign Affairs
NATO	The North Atlantic Treaty Organisation
NGO	Non-governmental Organisation
OCMA	The Office of Citizenship and Migration Affairs of Latvia
OSCE	The Organization for Security and Cooperation in Europe
PACE	The Parliamentary Assembly of the Council of Europe
UN	The United Nations
UNHCR	The United Nations High Commissioner for Refugees
UNICEF	The United Nations Children's Fund

List of Figures, Graphs and Tables

Figures

Figure 2.1: ‘Top-down’ process of change, **p 71**

Figure 2.2: ‘Bottom-up’ process of change, **p 72**

Figure 6.1: Public opinion polls among Latvia’s citizens on whether non-citizens should be given the right to participate in municipal elections, 2003-2014, **p 241**

Figure 6.2: Naturalisation rates in Latvia, 1995 – 2013, **p 247**

Figure 6.3: Public opinion polls among Latvia’s non-citizens on whether non-citizens should be given the right to participate in municipal elections, 2003-2014, **p 266**

Graphs

Graph 3.1: Total exports of Georgia by cluster countries, 2003-2013, **p 133**

Graph 3.2: Total exports of Georgia to and imports from Russia, 1995-2013, **p 135**

Graph 4.1: Government’s financial assistance assigned for Georgian Patriarchy, 2002-2013, **p 169**

Graph 5.1: Saeima debates: Total number of legislative and policy proposals, 2002-2014, **p 206**

Tables

Table 2.1: Example table of indicators of formal and behavioural compliance with religious rights in Georgia, **pp 68-69**

Table 2.2: Expected outcomes of compliance, given different scenarios of norm salience among the general population and the ruling governments, **p 77**

Table 3.1: Representation of political parties in Georgian Parliament, 1990 – 2012, **pp 111-112**

Table 3.2 Established institutional structures for the protection of minority rights, 2004 – 2008, **p 120**

Table 3.3: Summary of constructivist explanatory variables affecting implementation of norms across time in Georgia, and the resulting expectations for compliance, **p 136**

Table 4.1: IO recommendations and indicators of formal and behavioural compliance with Linguistic Rights, **pp 147-148**

Table 4.2: Key explanatory factors with regard to linguistic rights, and the resulting expectations for compliance, **pp 150-151**

Table 4.3: The number of enrolled minority students at state universities after the introduction of the quota system in 2010, **p 154**

Table 4.4: Post-accession compliance with IO recommendations regarding linguistic rights, **p 163**

Table 4.5: Indicators of formal and behavioural compliance with Religious Rights, **p 164**

Table 4.6: Key explanatory factors with regard to religious rights, and the resulting expectations for compliance, **p 173**

Table 4.7: Data on initiation and termination of criminal prosecution, **p 181**

Table 4.8: Data on restitution of religious properties and measures taken in this respect, **p 183**

Table 4.9: Post-accession compliance with IO recommendations regarding religious rights, **pp 184-185**

Table 4.10: Indicators of formal and behavioural compliance with Anti-discrimination legislation, **p 186**

- Table 4.11: Key explanatory factors with regard to anti-discrimination provisions, and the resulting expectations for compliance, **p 188**
- Table 5.1: Change in demographic structure of Latvian population, 1935 – 1995, **p 198**
- Table 5.2: Representation of political parties in the Parliament of Latvia, 2002 – 2014, **p 204**
- Table 5.3: Party position on ethnic minority rights in Latvia, **p 207**
- Table 5.4: Overall orientation of the party leadership towards European integration, **pp 210-211**
- Table 6.1: IO recommendations and indicators of formal and behavioural compliance with Citizenship policies, **pp 237-238**
- Table 6.2: Key explanatory factors with regard to citizenship policies, and the resulting expectations for compliance, **p 243**
- Table 6.3: Summary on compliance with of post-accession recommendations, **p 250**
- Table 6.4: IO recommendations and indicators of formal and behavioural compliance with linguistic policies: use of languages in public and private spheres, **p 273**
- Table 6.5: IO recommendations and indicators of formal and behavioural compliance with linguistic policies: maintaining the use of minority languages, **p 274**
- Table 6.6: Key explanatory factors with regard to Linguistic policies, and the resulting expectations for compliance, **p 281**
- Table 6.7: Level of Latvian language proficiency among ethnic minorities according to the survey results of 2008-2012, **pp 282-283**
- Table 6.8: Examination results of the state language command of the graduates of primary and secondary schools of national minorities (%), **p 284**
- Table 6.9: Total number of schoolchildren enrolled by language of instruction and the total number of schools by language of instruction, **p 287**
- Table 6.10: Summary on compliance with of post-accession recommendations, **p 292**

CHAPTER I: Introduction

Minority rights became a key concern for international organisations (IOs) in Europe after the end of the Cold War. The fall of the 'Iron Curtain' in 1989 redrew the map of Europe once more, bringing new security challenges to the shores of the European Union (EU). Not all political and ideological transformations at the time have been peaceful. The manifestation of 'ethnic nationalism' (Brzezinski 1989: 4), along with subsequent inter-ethnic and intra-state conflicts in Yugoslavia and 'post-Soviet borderlands¹' – e.g. Moldova, Georgia and Azerbaijan (Malloy, 2005) were perceived as an immediate threat to stability and security of the continent (Betts, 1992; Burgess, 1999; Campbell, 1998; Luoma-aho, 2002; Spiliopoulou Åkermark, 1996), consequently reviving 'minority question' internationally (Kymlicka, 2007; Schimmelfennig and Sedelmeier, 2005).

To ensure regional security and the future of European integration, European leaders have created what Stivachtis (2009) has called 'European universalism,' with underlying principles of liberal democracy and respect for human/minority rights. The nexus between protection of minorities and democracy constituted one of the building blocks of the 'European universalism.' It was widely believed that for democracy to sustain the rights of minorities need to be protected (Galbreath, 2005). Hence, even in the most peaceful transitions, such as in the Baltic States, nation-building policies became subject to considerable international attention, to prevent any potential spill-

¹ The concept of 'borderland' is borrowed from Pelkmans M. (2009) Introduction: post-Soviet space and the unexpected turns of religious life. In: Pelkmans M (ed) *Conversion after socialism: disruptions, modernisms and technologies of faith in the former Soviet Union*. Oxford, UK: Berghahn Books. In his book *Conversion after socialism: disruptions, modernisms and technologies of faith in the former Soviet Union*, Pelkmans provide an anthropological account of missionary encounters and conversion dynamics in the former Soviet Union. He shows that it is particularly the intersection of past and present, internal and external processes and tensions that they generate which shape religious practices in the region. In this respect, geography plays a pivotal role. Being situated in a space loaded with various norms, by definition, subjects states to different influences.

over effects in case of a possible emergence of conflicts in those states (Galbreath and McEvoy, 2012b).

Attempts to disseminate the norms pertaining to ‘European universalism fostered the creation of what is widely referred to as the ‘European minority rights regime’ (Galbreath and McEvoy, 2012a) – the underlying principle of which is the understanding that peace and prosperity can only be achieved if rights of minority nationals are protected. The three major International Organisations (IOs) that formed the central pillar of the European minority rights regime were the *Organization for Security and Cooperation in Europe* (OSCE), the *Council of Europe* (CoE), and the *European Union* (EU). The collaborative effort of these IOs was successful in changing minority rights practices throughout the European continent – from changing restrictive citizenship legislation in Latvia (Morris, 2003) and decriminalizing homosexuality in Romania (de Beco and Lantschner, 2012) to addressing the plight of Meskhetian population, deported during the Stalin era to Central Asia, in Georgia (Pentikäinen and Trier, 2004). These successes, among others, are attributed to the role IOs played in this process, paving the way for creation what is widely known as ‘European minority rights regime.’

This thesis is a part of the academic scholarship focusing on the effectiveness of IOs in fostering compliance with minority rights norms. In this chapter, a review of academic literature on the protection of minority rights pre- and post-establishment of minority rights regime will be presented. It presents a review of theoretical approaches to the study of minority rights, specifying how those approaches relate to the main research question of this thesis, and outlining existing gaps in the literature that this research aims to address. In particular, by reviewing existing academic

literature, it will be shown that after the fall of communism in Europe, minority rights have to a large degree been studied within the scope of Europeanisation literature. In this respect, the focus has been exclusively on EU candidate countries, and more recently on the ‘old’ EU member states. At the same time, the scholarship has predominantly focused on ‘top-down’ process of change in explaining legal and policy changes in the area of minority rights. *External incentives* in the face of *IO membership conditionality* has been highlighted as the main mechanism of change in the EU candidate countries.

Against these trends in the academic literature, the main puzzle of this thesis will then be introduced – in general terms, *why given no external positive incentives after accession to an IO, do states comply with minority rights norms?* It is in light of the discussion that the justification of selection of cases is presented afterwards. The focus of this thesis contributes to and further develops existing research in several ways. First, it applies the Europeanization framework to non-EU/candidate countries (in particular, Georgia). Rather than limiting the analysis to the (new and/or old) EU member states only, this thesis makes a step forward and (a) presents a comparative perspective on adoption of minority rights reforms in EU and non-EU countries (Latvia and Georgia respectively) (b) analyses the effects of the EU on ‘wider Europe’ – European Neighbourhood. Secondly, by incorporating analysis of both ‘top-down’ and ‘bottom-up’ processes of change, it contributes to the emerging research on the role of ‘bottom-up’ processes in Europeanization of domestic policies.

This study shows that the influence of IOs on states after accession is very limited. However, it is not defunct. Adoption of the FCNM in both countries is explained in terms of the ruling government's reputational concerns to safeguard an image of being

'good European citizens.' However, reputational concerns, when and if present, were only effective to the extent of forging *formal* (as opposed to *behavioural*) compliance. Behavioural compliance, on the other hand, was tamed by the ruling government's stance towards minorities and domestic political considerations (including domestic opposition to reforms).

The analysis of cross-issue within country variation has shown that in Georgia international pressure in the post-accession period was successful in cases where IO recommendations went in line with the government's preferences. In particular, this related to its vision of nation-building and economic policies. At the same time, while government preferences determined the form of post-accession changes, domestic opposition and/or veto players have significantly shaped the content and the quality of their implementation. In Latvia, however, none of the (country-level and within-country) explanatory variables developed in this thesis provided a satisfactory explanation for post-accession norm adoption. This thesis developed an alternative explanation to account for post-accession changes in Latvia. In particular, the process-tracing analysis showed that changes were introduced as a *reaction* to domestic socio-economic/political considerations and/or preceding 'crucial events,' internal and external, that revived government's sensitivities around the issue of language and security.

Secondly, bottom-up processes in the post-accession period take place indeed. This thesis has shown that bottom-up processes are more influential in Latvia, rather than in Georgia. Even though the effects of increasing activism on the part of Latvia's citizens on actual policy change can still be questioned, the research has shown that Latvians engage on different levels of (EU) governance, in an attempt to 'upload'

their concerns on the EU level, as well as domestically.

1 Minority studies pre- and post-Europeanisation: focus, methods, findings

Before the ‘minority question’ crossed paths with the issue of security in Europe, studies on minority protection have largely concentrated on the question of *what policy practices best ensure the protection of minorities* (Preece, 1998). Of direct interest to researchers in this regard were domestic legal instruments and existing international conventions. Minorities were studied as *objects* or *passive recipients* of policy law; whereas the role of International Organisations (IOs) was analysed against their capacity to ensure the protection of minorities (Jovanovic, 2014). Analysis of the state of minority rights was done against specific national contexts, such as Danish minority in Germany or German minority in Denmark, Hungary, etc. The subject of minority rights has overwhelmingly been the protection of minority languages (Crepaz, 2016).

As the role of IOs in changing minority rights practices in Europe became more prominent, academic scholarship turned to assessing their clout in fostering minority rights changes. The research has focused on top-down domestic influences of the EU through *socialization* and *conditionality* as the two main mechanisms of influence at the disposal of IOs. The research has been dominated by the question of *what are the effective mechanisms and tools of influence on behalf of the IOs fostering adoption of minority rights?* While single case study analyses gave way to comparative case studies (and later of the ‘old’ versus ‘new’ member states), the predominant focus on linguistic rights has been shifted to integrate other issue areas, such as religious and

political rights (Crepaz, 2016) – all incorporated in the Framework Convention for the Protection of National Minorities (FCNM).

Before we turn to a summary of general findings of the scholarship (see Section 3), the next section outlines main tools of influence on IO's disposal and the interaction between these organisations.

2 International Organisations: mechanisms of influence

Empirical studies on the 'nuts-and-bolts' (Galbreath, 2007) of the European minority rights regime are numerous (see e.g. Jackson Preece, 2005; Malloy, 2005; Galbreath and McEvoy, 2011; De Beco, 2012).² While the collective effort of the OSCE, the CoE and the EU is attributed to the establishment of the European minority rights regime, these organisations differ in membership, scope and purpose – which also defines the scope of organizational influence on their member states. In this section, underlying principles of the minority rights regime and its founding treaties will be outlined, followed by the overview of the main mechanisms through which these principles sought to be disseminated.

2.1 The OSCE: open membership, mutual responsibilities

The OSCE has been amongst the front-runners in the establishment of European minority rights regime. Assembled to maintain peace, stability, and effective protection of human rights, the OSCE has developed standards to protect minorities and thereby, prevent interstate and intrastate conflict in European neighbourhood (Wright, 1996; Galbreath, 2005). In this regard, one of the main documents developed

² For a comprehensive account of the origins of minority rights regime see Jackson Preece J. (1997a) *Minority rights in Europe: from Westphalia to Helsinki*. *Review of International Studies* 23: 75-92, Jackson Preece J. (1997b) *National Minority Rights vs. State Sovereignty in Europe: Changing Norms in International Relations?* *Nations and Nationalism* 3: 345-364.

by OSCE was the *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the [O]SCE* of 1990 (OSCE, 1990) (herein, Copenhagen Document).

Copenhagen Document

The Copenhagen Document reaffirmed that “respect for the rights of persons belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy in the participating States” (OSCE, 1990). The document stressed the need to resolve issues of ‘national minorities’ within the democratic process (Galbreath, 2005). Putting the responsibility on taking measures for ensuring protection of their minority nationals, the Copenhagen Document has further established that persons belonging to national minorities have the right

- (a) to use their mother tongue freely in private as well as in public;
- (b) to establish and maintain their own educational, cultural and religious institutions, organizations or associations, which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation;
- (c) to profess and practice their religion, including the acquisition, possession, and use of religious materials, and to conduct religious educational activities in their mother tongue;
- (d) to establish and maintain unimpeded contacts among themselves within their country as well as contacts across frontiers with citizens of other States with whom they share a common ethnic or national origin, cultural heritage or religious beliefs;
- (e) to disseminate, have access to and exchange information in their mother tongue;
- (f) to establish and maintain organizations or associations within their

country and to participate in international non-governmental organizations.

The OSCE membership has been open to aspiring entrants “from Vancouver to Vladivostok” (MC.DOC/1/09), who “expressed willingness to join the OSCE as a participating State” (MC.DEC/2/12). In turn, OSCE countries are expected to accept all commitments and responsibilities contained in OSCE documents (MC.DEC/2/12). Hence while its open membership policy could not provide avenues to exert influence over its aspiring entrants, with the time OSCE developed measures to foster adherence to its organizational principles among its member states – something that Fawn (2013) coined as ‘internal conditionality.’

The main instruments of influence through which the OSCE fostered compliance with minority rights were the institution of *High Commissioner on National Minorities* (herein, HCNM) and OSCE’s field missions in its member states (Fawn, 2013: 20-55). While these mechanisms lack sanctioning powers, they rely on *persuasion* and *socialization*. It was through *persuasion* (in the form of personal contacts, correspondence with relevant ministers, country visits, etc.) that the HCNM tried to *socialize* states into minority rights norms. The field missions, on the other hand, aimed at helping governments draft legislation that would meet international standards regarding minority rights protection. They were also used as human rights monitors.

2.2 The CoE: ‘soft’ conditionality, comprehensive monitoring mechanisms

After the communist demise in the 1990s, the Council of Europe (CoE) has adopted a more flexible approach toward its candidate states. To become a member, aspiring states were expected to demonstrate “clear intentions to achieve the Council’s

principles” (Fawn, 2013: 25). Such intention entailed a combination of ‘external’ and ‘internal’ conditionality that aspiring states were expected to fulfill prior and after their accession to the Council respectively. The criteria of ‘external conditionality’ sought to lay out the provisions that the candidate states were expected to meet upon their accession into the CoE (Fawn, 2013: 28). Among these were, signing the European Convention on Human Rights (ECHR) and its protocols prior to accession; ratify the Convention and the protocols within one year of accession, and also to sign and ratify other legally-binding conventions, including the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages (Fawn, 2013: 33). Hence, the CoE adopted ‘soft’ conditionality approach, where expressing willingness “to be considered as part of Europe” and committing to ratifying CoE principles upon accession were bottom line requirements for the CoE membership to be granted. Accepting countries upon the expression of willingness to abide by the CoE's principles, as opposed to meeting those standards before their accession, stemmed from the realization that membership had a symbolic value to aspiring states (Fawn, 2013: 28), which CoE hoped to ‘instrumentalise’ to foster further reform. In addition to the general requirements that all aspiring states were expected to meet, taking the differentiated approach the *Parliamentary Assembly of the Council of Europe* (PACE) tied CoE’s membership to issue specific requirements for the entry of individual states, each having specific time-frames for reform adoption.

‘Internal conditionality,’ on the other hand, sought to foster compliance with pre-accession commitments (Fawn, 2013: 28). The CoE developed a range of evaluation and sanctions mechanisms (for non-compliance) promote adoption of these commitments in the post-accession period. These included suspension of the right

of representation by the Committee of Ministers; enforcement of the CoE values by the regional judicial authority - European Court of Human Rights (ECtHR); legislative oversight by the Parliamentary Assembly of the Council of Europe (PACE) that reported on members' progress (Fawn, 2013: 21). Monitoring committees, on the other hand, provide an oversight of the implementation of CoE member states of democratic principles and human rights in general. These include the Committee on the Honouring of Obligations and Commitments by the Member States of the Council of Europe (Monitoring Committee), Commissioner for Human Rights, the European Commission against Racism and Intolerance (ECRI), and Advisory Committee on the Framework Convention for the Protection of National Minorities (henceforth, Advisory Committee). Advisory Committee has specifically delegated the task to supervise the implementation of the *Framework Convention for the Protection of National Minorities* (FCNM). The ECRI monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination. Reports prepared by the ECRI experts shed light on the implementation of *some* of the principles set out by the FCNM (non-discrimination in particular).

Framework Convention for the Protection of National Minorities

Throughout the time CoE developed a number of principles to protect the rights of minorities. These principles were enshrined in FCNM - the only binding treaty for minority rights protection (Galbreath and McEvoy, 2012a) established by the CoE's Committee for the Protection of National Minorities in 1993. The FCNM created a framework that sets out principles and goals to protect national minorities in *a spirit of* understanding, tolerance (Article 2) and intercultural dialogue (Article 6). Embodied in the 16 Articles (Articles 4-19), Section II of the Framework Convention

lays down specific principles that constitute the objectives, which the Parties undertake to pursue.

The broad aims of the Framework Convention are to guarantee the rights of equality before the law and prohibit any discrimination based on belonging to a national minority (Article 4.1); promote equality between people belonging to a national minority and those belonging to the majority (Article 4.2); maintain and develop the culture, and to preserve the essential elements of identity of minorities (namely religion, language, traditions and cultural heritage) (Article 5.1); make states refrain from any assimilationist policies (Article 5.2); guarantee freedoms in relation to peaceful assembly, association, expression, conscience and religion (Article 7), receiving and imparting information and ideas in the minority language (Article 9) in private and in public, orally and in writing (Article 10.1); access to the media (Article 9); guarantee the right to manifest their religion and to establish religious institutions and associations (Article 8); foster knowledge of the culture, history, language and religion of national minorities (Article 12.1); promote equal opportunities for access to education at all levels (Article 12.3); encourage effective participation of national minorities in cultural, social and economic life and public affairs (Article 15).

Within the scope of this thesis, in the case of Georgia, Articles 4.1, 4.2, 7, 7, 12.1, and 12.3 will be given special attention. In the case of Latvia, the implementation of the following Articles will be subject to investigation: 4.1, 4.2, 10.1, 12.1, and 12.3.

2.3 The EU: ‘strict’ conditionality, lack of monitoring mechanisms

Respect for the rights of persons belonging to minorities is “one of the *values* of the EU” (Article 2 of the Consolidated Treaty on the European Union). Parallel to this,

minority rights lack foundation in the EU law.³ This means that the EU lacks the power to enforce provisions related to the protection of minority rights, beyond those envisioned by the EU law: the principles forming the foundation of anti-discrimination provisions.

Against this background, the EU made an extensive use of membership conditionality to foster adoption of the main documents elaborated by the CoE and the OSCE (Tesser, 2005). In particular, in 1993 the European Union established the Copenhagen criteria that made EU membership conditional on the establishment of mechanisms for protection of minorities within the EU candidate states (Galbreath and McEvoy, 2012a: 18). While Copenhagen criteria suffered from an ambiguous requirement that countries respect and protect minorities (Sasse et al., 2004), the EU officials made an extensive use of the reports prepared by the OSCE and the CoE experts in this field. Reference to Advisory Committee's evaluation reports and recommendations is also made in EU's ENP Action Plans and EaP Country Reports.

While the success of *conditionality* as a tool was acknowledged by a number of studies (see below), given the lack of enforcement powers of the EU in the area, in the post-accession period implementation of minority rights norms is left to the discretion of individual member states.

3 'Conditionality': main tool for change

The general conclusion has been that *coordination* between the OSCE, the CoE, and the EU successfully led to the dissemination of minority rights norms in Europe

³ The EU law does, however, explicitly prohibit discrimination on the basis of membership of a national minority in the Article 21 of the Charter of Fundamental Rights, as well as by the Race Equality Directive. The European Commission monitors how potential member-states observe this requirement within the terms of the Charter of Fundamental Rights of the EU. The Commission has no general power as regards minorities, in particular over issues relating to the recognition of the status of minorities and their self-determination and autonomy. 23

(Kelley, 2004a). In particular, *normative pressure* and *membership conditionality* were highlighted as the two main mechanisms of influence (Grabbe, 2006; Grabbe, 2001; Börzel and Risse, 2003; Börzel et al., 2009). The challenge of the scholarship was to disentangle the two mechanisms and establish their independent causal effects, as the socialization techniques (and the discourse surrounding it) were tied to the prospects of eventual membership in one of the IOs. Moreover, another challenge was to disentangle the influence of these IOs from each other – very often membership in the CoE, for instance, became a *de facto* prerequisite for joining the EU (Tesser, 2005).

What is more prominent, while *conditionality* was found to be a successful tool in fostering pre-accession changes in CEES in general (Dimitrova, 2002b; Jacoby, 2004; Kelley, 2004a; Schimmelfennig and Sedelmeier, 2005; Vachudova, 2005), under the condition of high domestic adoption costs, the scale of material and political benefits that came with *EU membership conditionality* (as opposed to CoE conditionality) made it the EU conditionality the driving factor (Schimmelfennig and Scholtz, 2008; Schimmelfennig and Sedelmeier, 2005) – a ‘necessary condition’ (Schimmelfennig, 2008: 918) for the changes in minority rights area to take place (Kelley, 2004a: 4; Agarín and Regelman, 2012). Hence, the effectiveness of *conditionality* as a mechanism of influence depends on the size of rewards, the credibility of an IO in delivering them, as well as sanctioning non-compliance (Schimmelfennig and Sedelmeier, 2004). While material and political incentives are sought to alter the domestic cost-benefit calculations, once the *domestic adoption costs* are higher than offered incentives, the effectiveness of conditionality as the mechanism of impact is undermined (Schimmelfennig and Sedelmeier, 2005; Epstein and Sedelmeier, 2008).

Hence, what mattered was the ability of an IO to offer ‘carrots’ that were big enough to incentivize states to initiate reform process, including reforms in minority rights field. In this respect, due to the scale of material and political benefits, EU membership conditionality was thought to be the driving factor for change (Schimmelfennig and Sedelmeier, 2005; Schimmelfennig and Scholtz, 2008).

In turn, domestic adoption costs ranged from the desire from within for a change (Haughton, 2011) to the commitment of domestic elites to comply with EU conditionality (Pridham, 2008). The importance of the role of governing elites has been shown by numerous studies. Among those are studies by Schimmelfennig et al. (2003) on the impact of EU democratic conditionality on Latvia, Slovakia and Turkey and by Vermeersch (2003) on explaining policy shifts in the Czech Republic, Hungary and Poland. Both studies emphasize the role of governing elites as a favourable domestic condition for successful Europeanization to take place. Vermeersch goes further by arguing that the political nature of Copenhagen Criteria and the absence of consensus on the extent of protection of norms at the EU level make it easier for the EU-candidate states to maneuver. Thus, rather than placing emphasis on the role of the EU in this process, Vermeersch (2003) argued for the domestic political considerations, based on pragmatic interests and security concerns – which he saw as determining domestic minority rights policies. In this respect, the effectiveness of *conditionality* as a mechanism of influence has been subject to criticism by a few studies.

Despite the general agreement on the effectiveness of conditionality, the political nature of the Copenhagen criteria *per se* was subject to criticism. Its lack of clear benchmarks for measuring progress gave states room for maneuvering through

undertaken commitments in, among other things, the area of minority rights. The *criteria* applied to Latvia, for instance, and its subsequent progress in meeting them, varied from those of Romania, Hungary and/or Bulgaria. The paradox lay in the fact that the EU candidate countries had to comply with the *criteria* while being able to pick and choose (or sometimes ignore) among the existing models (Jacoby, 2004: 16). Moreover, as was shown by Hughes et al. (2004: 523), such ‘fluid’ nature of conditionality was accompanied by the inconsistency in its application by the European Commission over time. This led scholars to conclude that rather than having a clear causal effect on policy outcomes (Hughes et al., 2004: 523), conditionality carried a more rhetorical importance (Hughes and Sasse, 2003), both in the new member states (Sasse, 2008), as well as the ENP states (Lavenex, 2008).

Given the dominance of top-down incentive-based pre-accession norm adoption and political nature of the Copenhagen criteria, changed incentive structure post-accession raised concerns that the EU would face what has been called as ‘Eastern problem’ (Sedelmeier, 2008; Schimmelfennig and Sedelmeier, 2005; Epstein and Sedelmeier, 2008). As voiced by Risse and Börzel (2000: 114), pre-accession norm adoption was the result of unequal bargaining between the EU and the CEES. Once the biggest carrot of EU membership has been offered and consumed (Smith, 2003: 133), the argument went, lack of resonance of adopted norms domestically suggested, they would be contested in the post-accession period.

In this respect, pre-accession reforms in the area of minority rights were thought to be *the most likely case* for post-accession backsliding, due to a number of reasons. First, “conditionality gap” in minority rights field, as Rechel (2009: 8) put it, was more prone for post-accession backsliding, due to the lack of the foundation of minority

rights in the EU law. EU lacks enforcement mechanisms for minority rights norms, which makes sanctioning of non-compliance impossible. Additionally, concerning the EU member states, the reliance of the EU on the CoE (and other IOs) for minority rights monitoring (and to some extent sanctioning) mechanisms significantly undermines the costs of a possible retreat or non-compliance (Ahmed, 2010). Under these conditions, and secondly, discrepancies in minority rights practices among the old and new member states serves as an additional impetus for the new EU-members to retreat from previously undertaken commitments (Pridham, 2008). Consequently, as the costs of non-compliance are not high, retreat from pre-accession commitments with minority rights norms is more likely, compared to other issues covered by the EU law.

3.1 'Post-conditionality': the puzzle

Post-accession developments in minority rights field pose a *puzzle* for the dominant explanatory external incentives model of pre-accession changes. First, against the expected scenarios of post-accession backsliding (outlined above), initial findings show that change in incentives structure post-accession has not lead to a systematic backlash in legal compliance with regulations covered by the EU law among the new EU member states (Sedelmeier, 2008; Falkner and Treib, 2008). Neither is such a backlash observed in the implementation of the norms covered by the Copenhagen Criteria in general (Levitz and Pop-Eleches, 2009), and in the most likely case of minority rights in particular (Rechel, 2009; Schwellnus et al., 2009; Pridham, 2008). Secondly, not only the expected scenario of systematic backlash in minority rights norms has not been materialised, in some states post-accession norm adoption has taken place. Thus, for instance, Latvian government adopted FCNM on 26 May

2005, after becoming EU member state in May 2004. Post-accession norm adoption is particularly *puzzling*, given that the pre-accession studies highlighted the *EU accession conditionality* as a ‘necessary condition’ for change (Schimmelfennig, 2008: 918).

Interestingly, adoption of minority rights norms also took place in cases where the primary carrot of EU membership had never been used – EU's Neighbourhood (ENP states): unlike the EU candidate countries, the ENP states were not subject to the EU's accession conditionality. Being subject to the EU's (and CoE's) *normative pressure* (Grabbe, 2006) and CoE's ‘soft conditionality’ only, Georgia and Ukraine, for instance, also adopted the FCNM after becoming members of the CoE.

While observed post-accession developments in the area of minority rights are *theoretically puzzling*, they need further investigation. First, rather than resonating in formal/legal norm backsliding, the expected backlash might have been embodied in the lack of practical implementation. As has been suggested by Sedelmeier (2012), ‘lock-in’ of pre-accession reforms can make it costly⁴ For the government to disentangle established institutional structures post-accession, even in cases where EU's sanctioning power is not strong. In this respect, it is important to draw a distinction between *formal* and *behavioral* compliance. Thus, to be able to draw firm conclusions on whether expected scenario of norm backlash has been materialised, to paraphrase Falkner et al. (2008), we also need to examine whether pre-accession commitments turn into ‘living rights or dead letters’ post-accession? Indeed, emerging pattern of compliance post-accession, in general, has shown, first, norm transposition

⁴ In his study of gender equality institutions, Sedelmeier (2012) showed that post-accession compliance could be successful in case government's preferences are in line with the adopted norms, and if veto players are present.

does not always lead to the implementation of thereof. Legislative changes do not always lead to policy and institutional changes (Börzel and Risse, 2003: 72; Falkner and Treib, 2008). This has also been true in the area of minority rights (Rechel, 2009; Sasse, 2004; Sasse, 2008). Secondly, apart from converging on legislation pertaining to non-discrimination, compliance with minority rights norms varies across states, as well as across different issue areas within states (Rechel, 2009; Wiener and Schwellnus, 2004). Thus, as will be shown in this thesis for instance, in general terms implementation of linguistic rights has been more successful than the implementation of recommendations regarding the rights of non-citizens in Latvia. It is important to note, however, that studies focusing on actual implementation of minority rights norms remain limited. Additionally, while the expectation of systemic reform backsliding has not been materialized, the pace of reforms has slowed down, and in some individual instances has been reverted indeed⁵.

Given this background, it can thus be concluded that post-accession developments in the area of minority rights present a *puzzle* indeed. Despite cross country and cross-issue within countries variation in compliance with minority rights, against the expected scenario of backsliding, there is no systematic reversal of the adopted norms, and despite the lack of material incentives/sanctions, positive developments in some issue areas have taken place post-accession. So the broader question that needs to be addressed is *what explains compliance (formal and behavioral) with minority rights norms, given the lack of external positive incentives post-accession?* Secondly, what explains cross country and cross-issue within countries variation in compliance in this regard? Also, thirdly, given the focus of this thesis (on EU and non-EU member states), what explains *similar* outcomes (values on DV: adoption of FCNM

⁵ The accent here is on the fact that this phenomenon is neither systematic nor big in scale.

post-accession) across the new EU-member and the ENP states (post-accession), despite systemic differences⁶?

In the next Section 4, Europeanization scholarship and research on minority rights protection will be analysed in comparative perspective. It will show that scholarship on minority rights protection had been heavily influenced by theoretical and methodological approaches developed by the Europeanization literature. In particular, it will first focus on the transformation of Europeanization research from ‘EU-ization’ as ‘political encounter’ (Wallace, 2000) to ‘Europeanization’ as ‘cultural encounter’ (Flockhart, 2010), within which studies on minority rights protection fall. Secondly, it elaborates on the widening of geographic focus of Europeanization studies – from an exclusive focus on EU member states to EU candidate and neighbouring countries. In this regard, this thesis sheds light on the EU's influence in its neighbourhood (in the area of minority rights) through European Neighbourhood Policy (ENP) and Eastern Partnership (EaP) initiative. Thirdly, Section 4 shows that parallel to Europeanization scholarship, research on minority rights embraced the top-down and bottom-up approaches to the study of changes in minority rights policies. It also indicates that studies analysing bottom-up influences of change in the minority rights area are still in their infancy - something that is of direct relevance to this study. Lastly, Section 4 elaborates on rational institutionalist and constructivist theoretical approaches that both Europeanization literature and studies on minority rights have driven on in explaining the rationale behind changes in separate issue areas. In line with Schimmelfennig and Sedelmeier (2002) and Risse et al. (2013), it will be suggested that the two approaches need to be used complementarily to give a fuller account of post-accession norm compliance – the approach that is taken up in this thesis.

⁶ Chapter II outlines systemic differences between Georgia and Latvia in detail.

4 Europeanization vs. Minority Rights: Theoretical approaches and methods of study

In recent decades, studies on minority protection have been closely intertwined with Europeanization research. One of the main reasons being, introduced in 1993, protection of minority rights became one of the cornerstones of EU's membership criteria (Jovanovic, 2014) – widely known as Copenhagen Criteria. This section puts Europeanization scholarship and research on minority rights protection in comparative perspective. In particular, it shows a heavy borrowing and synchronization with theoretical and methodological approaches of studies on Europeanization by the scholarship on minority protection. It also shows a) where this research stands regarding theoretical approaches and b) highlights the gaps in the literature that this project aims to fill.

4.1 Definitions: Europeanization as 'EU-ization' and beyond

“Europeanization” is an elusive concept (Clavin and Patel, 2010: 271). The scope of Europeanization research has undergone a transformation – from ‘EU-ization’ as ‘political encounter’ (Wallace, 2000) to ‘Europeanization’ as ‘cultural encounter’ (Flockhart, 2010). At first, the subject of Europeanization research was the emergence of EU competencies and pooling of power at the EU level (Cowles et al., 2001), and later, effects of European policy-making on domestic policies (Börzel, 1999). Defined in a narrow sense, Europeanization was seen as ‘EU-ization’ – a ‘political encounter,’ where the subject of Europeanization research was institutional and organizational practices and policies, emerged as a result of interaction between the EU and its member states. In a broader sense, Europeanization was defined in terms of ‘cultural

encounter,' extending the analysis of effects of the EU to ideational factors, including norms and behavioral practices. This approach views Europeanization as a process of community formation – community, differentiating *it-self* from *others* (Flockhart, 2010: 791). 'Europeanization of minority rights' falls within the scope of Europeanization as 'cultural encounter' due to a number of reasons. First, it lacks the foundation in EU law and embodies norms and principles, implementation of which largely depends on the goodwill of governments. States are expected to abide by the norms, due to their membership in IOs (which, as has been stated earlier, have limited enforcement capabilities), with an expectation of and commitment to comply with the norms and founding principles of the given IO. Implementation of minority rights is thus fostered (predominantly) through a creation of 'identity' – of those democratic and pluralistic societies, respecting the rights of minorities – the building blocks of European minority rights regime (Galbreath and McEvoy, 2012a).

4.2 Geographic focus: from EU member states to EU neighbours

Parallel to this, geographic focus of Europeanization studies has also widened – from an exclusive focus on EU countries, to EU candidate (Sasse et al., 2004; Schimmelfennig and Sedelmeier, 2004; Schimmelfennig and Sedelmeier, 2006; Grabbe, 2006; Sedelmeier, 2011) and neighbouring states (Lavenex, 2004; Lavenex and Schimmelfennig, 2009; Lavenex, 2007). The effects of the EU's influence in its neighbourhood were analysed within the framework of 'Europeanization beyond EU-ization' (Schimmelfennig, 2012). Falling short of offering EU membership, European Neighbourhood Policy (ENP) was an attempt to promote EU's core liberal values and norms in its neighbourhood. The EU's approach to its neighbouring countries is based on the principle of "differentiation," where the terms and depth of cooperation

between the partners are agreed on an individual basis and is tied to the progress made by participating state. Within the scope of Europeanization beyond EU-ization, domestic change in EU's neighbouring states is fostered by the combination of (issue-related) *conditionality* and *socialization* as tools of influence (Schimmelfennig and Sedelmeier, 2005; Kelley, 2004b). However, while the EU makes use of similar tools of influence of domestic change in its candidate and neighbouring states, there are crucial differences. While the EU has actively used its membership conditionality as a means to promote adoption of minority rights in its candidate countries, the same provision did not flag in its (bilateral) differentiation agreements with its neighbours (see Chapter II). Hence, the EU's influence in the area of minority protection in its neighbourhood is of a more indirect nature – through fostering the establishment of representative democratic institutions.

4.3 Methods of study: 'Top-down' vs. 'bottom-up' Europeanization

Parallel to the broader Europeanization scholarship, research on minority rights embraced the top-down and bottom-up approaches to the study of changes in minority rights policies. During the EU-enlargement process, Europeanization literature (as EU-ization and beyond) has to the greatest extent focused on the “top-down” influences of European institutions on its candidate states in the area of *acquis communautaire* (EU law) and the norms embodied in the Copenhagen accession Criteria (such as respect for human and minority rights). At the same time, the differential impact of EU institutions domestically fostered Europeanization studies to focus on the domestic factors that fostered and/or hindered the process of change (Falkner et al., 2005). Another strand of Europeanization research has focused on the ‘domestic usages’ (Schimmelfennig and Sedelmeier, 2005) of Europeanization processes – in

particular, the way domestic actors interpret, re-interpret and eventually translate European norms into the domestic arena (Woll and Jacquot, 2010). Such “bottom-up” approaches bring the agency of domestic actors back in and present European-level institutions as a venue for learning and lesson drawing opportunities. Thus, Europeanization research has come to encompass mechanisms and processes going beyond EU-ization (Featherstone and Radaelli, 2003). Parallel to the general approaches in the study of Europeanization literature, approaches to the analysis of changes in minority rights policies were first focused on ‘top-down’ influences of IOs (including the EU’s main tool of influence: membership conditionality) and later on ‘bottom-up’ factors that influences the state of minority rights in a given country. These (bottom-up) approaches are still in their infancy, something that is of direct focus to this study.

4.4 Theoretical approaches: Rational Institutionalism & Constructivism

In the same vein, within the scope of Europeanization literature, studies on minority protection have used rational institutionalist and constructivist theoretical approaches in explaining the rationale behind changes in minority rights policies. Within the Europeanization literature, rational choice (RCI) and sociological institutionalism have been the two dominant approaches to explain why and under what conditions do states adopt externally induced norms, including minority rights standards.

Rational institutionalist approach

Seeing states as rational and goal-oriented, rational institutionalists argued that states were guided by the ‘logic of consequentialism’ (March and Olsen, 1989; March and Olsen, 1998) in complying with the Copenhagen criteria. Embodied in the *External*

Incentives Model (EIM) (Schimmelfennig and Sedelmeier, 2004; Schimmelfennig and Sedelmeier, 2005), scholars emphasized the role of political and material incentives that the EU offered conditionally through Copenhagen criteria in fostering policy changes domestically. According to the model, states committed to international norms through cost-benefit calculations to *maximize their utility*. It was precisely because external political and economic incentives offered by IOs outweighed domestic adjustment costs that the pre-accession changes took place (Schimmelfennig and Sedelmeier, 2005). As has been outlined earlier in this chapter, explanatory power of the EIM model in accounting for effectiveness of the EU conditionality has been widely acknowledged by the Europeanization literature (Dimitrova, 2002a; Jacoby, 2004; Kelley, 2004a; Schimmelfennig and Sedelmeier, 2005; Vachudova, 2005), including the area of minority rights (Kelley, 2004a; Agarín and Regelman, 2012).

Constructivist approach

Constructivists, on the other hand, argue that such an approach is highly problematic because “we cannot even describe the properties of social agents without reference to the social structure in which they are embedded” (Risse et al., 1999: 148). Constructivists stressed the ‘logic of appropriateness,’ according to which it was through socialization and collective learning process that new members of a society learn the ways of behaviour defined as appropriate/necessary (Finnemore, 1996; Finnemore and Sikkink, 1998; Barnes et al., 1980; Checkel, 2001). This model stressed the importance of legitimacy of contemporary Western norms and rules in the face of the EU candidate countries in accounting for the domestic policy changes in the CEES (Börzel, Risse, & May, 2009; Schimmelfennig and Sedelmeier 2004, 2005; Kelly 2004; Cirtautas and Schimmelfennig, 2010; Börzel et al., 2009). It followed that

compliance with the IO conditionality followed as a result of a learning process.

According to this model, the likelihood of compliance with international norms increases the more they are compatible with pre-existing domestic norms or collective understandings and identities embedded in a social and political culture (Checkel, 1999; Cortell and Davis, 2000). It does not though mean that once a given norm does not resonate with the existing domestic cultural understanding, it cannot be eventually learned and habituated. Constructivists insist on mutual *constitutiveness* of (social) structures and agents (Adler, 1997; Wendt, 1999), and hence see IOs as a platform for interaction and discourse through which such norms could be disseminated (Risse, 1999: 530; Checkel, 2001). It is through interaction (in the form of argumentation and persuasion), according to constructivists, that IOs socialize states into certain norms of behaviour.

The explanatory power of EIM brought rationalist explanations to the centre of Europeanization literature. Minority rights norms adoption was seen as driven predominantly by the top-down external process, where international organizations (e.g. the EU, the CoE) served as agents altering domestic cost-benefit calculations through offering political and material incentives. Thus, the emergence of 'bottom-up' approaches to explaining post-accession norm adoption presents a new opportunity for constructivists scholars to test non-rationalist hypotheses, as the post-accession period is no longer dominated by incentives structure. The absence of material and political incentives in the post-accession period presented a fruitful ground for constructivist assumptions to be tested.

While the two theoretical perspectives are based on different logics, scholars have suggested that the two approaches need to be used complementarily to give a fuller

account of how norms emerge and spread. As Schimmelfennig and Sedelmeier (2002: 508) put it, the difference between the two theoretical approaches is “a matter of degree rather than principle.” Risse et al. (2013) have also argued that such a divide is obsolete. Rather, these distinct theoretical approaches can be used to explain different mechanisms and sequences in the adoption of norms. Strengthening the justification of this approach is the argument that it is impossible to draw a clear-cut analytical distinction between rationalist and constructivist thinking. Risse and Ropp (2013: 12-13) point out that “logic of consequences and the cost-benefit calculations of utility-maximizing egoistic actors are often embedded in a more encompassing logic of appropriateness of norm-guided behaviour as institutionalized in the contemporary international human rights regime.” When used alone, persuasion very rarely bears real fruits. Likewise, the use of incentives is usually accompanied by persuasion and discourse – something that Kelley (2004) elaborates widely on in her study on *ethnic politics in Europe*. By examining effects of socialization- and incentives based techniques Kelley (2004a) demonstrated, to be effective socialization based methods need to be combined with incentives. On the other hand, incentive based techniques have always been accompanied by socialization-based efforts. It is this approach that is taken up in this thesis.

In the next Section 5, explanatory variables accounting for compliance with minority rights post-accession will be summarized. The presentation of initial findings on post-accession compliance with minority rights norms will be clustered according to the methodological approaches: top-down and bottom-up. The discussion in this section forms the basis for identifying explanatory variables that will be used to develop main hypotheses of this thesis (see Chapter II).

5 Minority rights practices post-conditionality

5.1 'Top-down' Europeanisation

For the most part, research on post-accession changes remains limited to the role of 'top-down' and/or structural factors in increasing the likelihood of norm adoption post-accession. However, a new social environment/environment of new opportunities that the new member states found themselves in, amid their accession into the EU (and other IOs), also found its resonance in the analysis of norm adherence and/or non/implementation. The research has shown, most variables identified by the Europeanization literature as increasing the likelihood of adoption of the norms pre-accession (see Sections 1 & 3), did in one way or another, play a role in fostering compliance with minority rights post-accession. Most prominent among those were external incentives, domestic adoption costs (veto players, political elites, etc.) and state identity. Hence, the theoretical framework of this thesis (see Chapter II) also focuses on these explanatory variables. Membership in the EU, on the other hand, put indirect pressure on its member states to honor their pre-accession commitments and to adhere to the principles of minority rights protection (Pridham, 2008).

Schwellnus et.al. (2009) examined scope conditions under which minority rights norms are adopted, maintained or revoked. The analysis showed a clear distinction between Poland and Romania on the one hand and Estonia and Latvia on the other. The analysis of policy changes in Estonia and Latvia showed no consistent constellation of factors under which positive change always occurs. The analysis of policy changes in Poland and Romania, on the other hand, showed two equifinal solutions that accounted for positive change (that is, norm adoption). The first one

is a domestic explanation, in which *pro-minority oriented governments* and *veto players* in conjunction with small minorities always lead to positive change, irrespective of external incentives. The second one included *external incentives* as a necessary component, which consistently produces a positive outcome in less favourable domestic conditions, i.e. with large minorities and in the presence of nationalist veto players. Schweltnus et al. (2009) concluded that further factors have to be considered to resolve the contradictory configurations as much as possible.

All factors that were hypothesized to affect post-accession backsliding by the Europeanisation literature (see Section 3), in one way or another, played a role in the post-accession implementation of the minority rights norms. Research by Brosig (2010) on the implementation of minority rights in Estonia and Slovakia examined the quality of norms, misfit and state administrative capacities on patterns of behavioural non-compliance with the FCNM and non-discrimination provisions. Contrary to rationalist expectation of ‘clearer IO demands’ to be increasing the likelihood of norm adoption, Brosig showed that norm resonance, vague formulation of minority rights standards (that allow for arbitrary interpretation)⁷ and the focus on the formal legal transposition of the norms in the pre-accession period (with no focus on implementation) – all accounted for successful transposition of minority rights norms in the post-accession period. At the implementation side, however, both vaguely formulated norms of the FCNM and the much more strictly formulated EU directives face similar application problems. Also, unlike in the cases of EU *acquis* implementation, Brosig (2010) found no clear causal relationship between limitations in administrative capacities and implementation of minority rights both in Estonia and Slovakia.

⁷ See also Simmons BA. (1998) Compliance with International Agreements. *Annual Review of Political Science* 1: 75-93.

Maygündter (2012: 485) also notes that rather than being an impediment to implementation, 'indeterminacy of norms' could in the long run socialize states into international norms of minority rights protection through social practice. Accordingly, norms that are more vaguely articulated permit a wider range of interpretation and are therefore more prone to re/produce new social practices. In her analysis of the sustainability of external pressures on Slovakia's implementation record of the *European Charter for Regional or Minority Language* (ECRML), Maygündter (2012) highlighted the importance of state's identity and interests, in the form of national self-assertion, in informing state's policies regarding first ratification (in pre-accession period) of the ECRML (that was not followed by implementation policies). Taking a constructivist approach to explaining the implementation of minority rights in Slovakia, Maygündter (2012) suggested that besides having a formal impact, norms also have a constitutive function of influencing and changing beliefs and identity of the actors. In the post-accession period, Maygündter (2012: 480) noted, a strong entrenchment with the international institutions fostered the creation of social ties that have, in medium-term, "generated reciprocal collective meanings on minority language rights and proved to have a constitutive impact on Slovakia's identity profile in the post-accession period." In the long run, however, "externally induced progress has overlapped with the alternating political elites in power, dominated by populist and nationalistic rhetoric or moderate centre-right parties." These factors finally hampered a more comprehensive implementation of Slovak minority language protection until today. Hence, while a pro-minority government, minority parties (serving as veto players) and interaction of domestic political elites with IO were considered to have a positive effect on ECRML implementation, the dominance of

populist and nationalist parties in the government was found to have an adverse effect in this process.

Similar to Mayrgündter (2012), Agarín and Regelmann (2012) showed, minority right policies in Estonia and Slovakia were most effectively implemented in the area where they upheld domestic perceptions of sovereignty. They argue that the EU membership perspective was instrumentally used by state elites to pursue their national interests - protect state sovereignty from national minorities' and their kin-states' minority-related claims in particular. Integration with the EU was used to entrench ideals of state-ownership in policies and institutions. The authors argue that policy dynamics and changes in policy-making rationale in the post-accession period suggest that much of these policies changed not to improve relations between the minority and the majority. Agarín and Regelmann (2012) concluded that European integration provided the structural resources for domestic actors to stabilise the status quo in interethnic relations through minimal policy change while strengthening majorities' independence in policy-making on national minority issues.

5.2 'Bottom-up' Europeanisation

'Bottom-up' Europeanization is conceptualized as reorientation of domestic civil society structures towards European laws, norms, and practices; and the increasing role of non-state actors in national policy making by using new modes of governance post-accession (Della Porta et al., 2009; McCauley, 2011). While the study of 'top-down' and/or structural variables remains relevant, the insufficiency of this approach to fully account for post-accession developments in the minority rights field led scholars to start exploring possible 'bottom-up' influences. In part, the shift was

influenced by the introduction of the term "minority" in EU primary law (Lisbon Treaty, Charter of Fundamental Rights), and the accession of the candidate countries into the EU – where both of these factors opened new avenues for bottom-up influences (Jovanovic, 2014: 5).

The research shift from ‘top-down’ means of fostering minority protection to ‘bottom-up’ processes has been termed as “an ongoing actorness formation” (Jovanovic, 2014: 7), where understanding of minorities and their roles has been transformed from seeing them as passive objects of minority rights norms to active agents actively seeking protection. The essence of this is the empowerment of minorities through their active participation in law-making, legal implementation and monitoring. Defined by Palermo and Woelk (2003) as the "law of diversity," this approach places participation of minorities at the centre of the process of legal norm formation and its implementation. The contours of minority participation are defined by what Palermo and Woelk (2003: 7) called as ‘vertical’ and ‘horizontal subsidiarity of minority issues.’ On the one hand, a vertical subsidiarity of minority issues leads to multilevel minority governance, once the country in question becomes a member of either the EU⁸, or the Council of Europe. Membership in the IO matters, due to the new legal, administrative and policy avenues that it opens up for its member states to operate in. Apart from providing certain norms and rules of diversity management, membership in an IO also leads to the introduction of new actors that start playing a role in macro-management of diversity issues. Horizontal subsidiarity, on the other hand, results “in a constant exchange of positions as minority and majority[.]... that...[v]ary according to the territorial level and competence concerned” (Palermo and Woelk, 2003: 7).

⁸ This is especially relevant for the issue covered by EU’s anti-discrimination directive.

Malloy (2014) operationalizes the concept of minority empowerment in more detail. She does so through an analysis of the social structure of protection (European minority rights regime) and collective agency (human and social capital), where

“Social structure refers to institutions at the macro state/inter-governmental level which heretofore have created a hegemonic discourse around protection and top-down approaches to empowering minorities as objects of protection. Collective agency refers to acts and action based on individual and collective autonomy focusing on choice and subjective action. In so far that it takes place at the micro level, it is the basis for a bottom-up approach (Malloy, 2014: 24).”

It follows that the success of minorities in lobbying for a policy change in particular issue area depends on the plurality of levels of governance – social structures on European and domestic levels – that they operate in (and the rules of interaction such governance imposes) on the one hand and the interaction of them with other (opposing) groups on the other. It is through social action, in the form of social mobilizations, demonstrations, etc. that minorities can foster changes.

Examining the role of non-state actors in six EU countries – France, Germany, the United Kingdom, the Netherlands, Spain, and Italy – and Switzerland, Della Porta et al. (2009) concluded that social movements could play a part in bringing about Europeanization through exerting pressure on their respective governments by either "organizing at the European level, making demands on European institutions, or framing their demands within a European discourse" (Della Porta et al., 2009: 35).

“Bottom-up” Europeanization should not, however, be solely understood in terms socialization of non-state actors to and instrumentalisation by those actors of European level norms. It is a more dynamic and multi-directional process. In his study

on the anti-GMO (genetically modified organism) movement in France, McCauley (2011) identified three variants of “bottom-up” Europeanization, existent in the literature - *proaction*, *rejection/promotion* and *usage*. Proaction “involves the reorientation of national groups to supranational venues” (McCauley, 2011: 1021). Rejection/promotion “concentrates on the appearance of anti- and pro-EU groups, movements or activities at the domestic and European levels” (McCauley, 2011: 1022). Usage refers to processes resulting from *direct* and *indirect* top-down pressures. The direct top-down pressure includes resource empowerment and organizational restructuring. The indirect pressure, on the other hand, comes as a result of EU-induced pressures, leading to shifts in the national environment (McCauley, 2011: 1022).

Examining implementation of language rights of the Hungarian minority in Romania, Balázs and Schweltnus (2014) found that minority empowerment in the form of their representation in political and administrative decision-making does not always lead to the implementation of minority protection policy. Instead, they suggest that the patchy implementation of minority language rights in Romania is best understood as a decoupled process between central political decision-making and local implementers. On the national level, politicians are mainly oriented towards gaining legitimacy through enacting legislation and presenting it as a success. Implementation of those policies is not of paramount importance to them. This is not the case for local administrators. Balázs and Schweltnus suggest, minority empowerment increases the chances of minority rights implementation, where the minority fully controls both political decision-making and administrative positions responsible for implementation (Balázs and Schweltnus, 2014: 109).

Along with top-down and bottom-up processes, historical institutionalist factors (early negotiated interstate relations) also influences the pattern of minority rights implementation. Analysing ratification and implementation of the FCNM and the ECRML in Denmark, Jovanovic and Lynggaard (2014) found that previously negotiated interstate relations shape trajectory (and content) of norm transposition and implementation. Hence, they suggested, not only European and domestic level factors should be taken into consideration, but existing interstate arrangements (the role of kin-states), institutional norms and rules that define majority-minority relations (power sharing), and "which types of decision-making procedures are considered appropriate or inappropriate in the production of policies" (Jovanovic and Lynggaard, 2014: 67).

However, scholarship taking 'bottom-up' approach to Europeanization of minority rights area is limited. The existing studies tend to focus on the 'new' (Balázs and Schwellnus, 2014) and 'old' EU member states (Crepaz, 2014; Guella, 2014; Jovanovic and Lynggaard, 2014), very few compare the two (Crepaz, 2016). Studies comparing EU to non-EU states are almost nonexistent – the gap addressed in this thesis.

To summarize, this thesis contributes to and further develops existing research on minority rights in several ways. First, it applies the Europeanization framework to non-EU/candidate countries. Studies on minority rights protection within Europeanization literature have exclusively focused on EU candidate countries, and more recently on the 'old' EU member states. Rather than limiting the analysis to the (new and/or old) EU member states only, this thesis makes a step forward and (a) presents a comparative perspective on adoption of minority rights reforms in EU and

non-EU countries (b) analyses the effects of the EU on 'wider Europe' – European Neighbourhood. Secondly, it contributes to the emerging research on the role of 'bottom-up' processes in Europeanization of domestic policies. It thus brings the 'agency' of actors back in. This allows us to test for non-rationalist hypotheses, as the post-accession period is no longer dominated by incentives structure. Additionally, by incorporating both 'top-down' and 'bottom-up' processes, this research presents a more comprehensive account on post-accession changes.

6 Case selection

As has been shown throughout this chapter, domestic impact of IOs on minority rights practices in Europe has been explained in terms of *coordination* between the OSCE, the CoE, and the EU (Kelley, 2004a). In this regard, scholars have outlined the pivotal role of *top-down* processes that led to minority rights norm adoption in Central and Eastern European Countries (CEECs). In particular, *External Incentives Model (EIM)* presented the most compelling explanation, suggesting that for CEECs the *EU membership conditionality* was the necessary condition - the driving factor (Schimmelfennig and Scholtz, 2008; Schimmelfennig and Sedelmeier, 2005) fostering adoption/transposition of minority rights norms into domestic legislation (Kelley, 2004a: 4; Agarín and Regelmann, 2012). These findings generated the expectation that once incentives structure change in the post-accession period, we would witness norm backsliding (Sedelmeier, 2008; Schimmelfennig and Sedelmeier, 2005; Epstein and Sedelmeier, 2008).

Post-accession variation in minority rights practices cross countries and cross-issue within countries, as well as the continuation of reforms (adoption of FCNM) within the EU and its neighbourhood countries in the post-accession period raised questions

about the effectiveness of ‘*EU membership conditionality*’ as an external tool of influence. These theoretically puzzling developments led some scholars to conclude that conditionality carried a more rhetorical importance (Hughes and Sasse, 2003), both in the new member states (Sasse, 2008), as well as the ENP states (Lavenex, 2008).

The insufficiency of the dominant incentive-based explanatory approach to fully account for post-accession compliance with minority rights norms (both lack of backsliding and adoption/transposition of new norms post-accession) invites for a more comprehensive investigation on the role of alternative mechanisms. The main *puzzle* that needs to be addressed is *what explains compliance with minority rights norms, given the lack of external positive incentives post-accession?* To render the dominant (pre-accession) explanatory variable (that is, *EU membership criteria*) explanatorily irrelevant (as it is no longer available), the cases are selected from two different social systems – EU and non-EU states (ENP states in particular). The cases are selected on values of DV – *similar* outcomes – in particular, adoption of the FCNM post-accession. *Adoption of FCNM post-accession* as an issue *per se* represents a case of formal compliance with pre-accession promise – where states honour their pre-accession promise in the post-accession period when the main ‘carrot’ of EU membership is no longer on the table. Selecting the cases based on compliance with pre-accession commitments in the post-accession period allows addressing the main *puzzle* of the thesis, while shedding light on the questions that are of central importance to this research. In particular: first, what explains cross issue within countries variation in compliance with minority rights? Also, secondly, given the focus of this thesis (on EU and non-EU member states), what explains cross-

country similarities (in particular, adoption of the FCNM) across the new EU-member and the ENP states (post-accession), despite systemic differences.

The question of ‘why given differences across cases do we observe similar outcomes’ inspired one of the most prominent comparative studies in social sciences, including the works of Skocpol (1979) *States and Social Revolutions: A Comparative Analysis of France, Russia, and China*, Linz and Stepan (1996) *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post Communist Europe* and Alexis de Tocqueville (1856), *Democracy in America and The Old Regime and the French Revolution*, among others. Studying cases across different social systems, de Tocqueville, Skocpol, Linz and Stepan structured each of their studies in a way as to compare cases, where differences were so prevalent that they were rendered explanatorily irrelevant, whereas common factors - explanatory. Coined as the *Most Different Systems Design* (MDS) (Przeworski and Teune, 1970) and/or Mill’s *Method of Similarity*, this method allows us to compare cases across different social systems (e.g. new EU member and ENP states), rendering the most important systemic difference between them (that is, membership in the EU and the CoE) irrelevant in explaining similar outcome (adoption of the FCNM post-accession). Hence, such a design will allow shifting our focus from ‘membership conditionality,’ both ‘soft’ and ‘hard,’ as the main mechanism of influence to alternative explanations (both external and internal), encompassing both rational institutionalist and constructivist thinking. The explanation of FCNM adoption, following the logic of MDS, will be based on common explanatory factors, identified as important by existing literature in the field (see Chapter II).

Case selection is thus based on the *cross-case* characteristics of a case (Seawright and Gerring, 2008: 296): according to their fit into the question upon which research

design is based: *what explains similar outcomes, despite systemic differences across cases?* Thus, first, the cases are chosen depending on the (positive) value of independent variable (DV) post-accession: specifically, adoption of the FCNM. Secondly, these cases are selected on the outcomes of implementation patterns for specific issues areas of the FCNM within countries that are representative of different social systems: specifically, the new-EU member and the ENP states.

Designing a study according to the given theoretical puzzle does not necessarily require selecting cases strictly on the condition of adoption of the FCNM. The criteria might range from the post-accession transposition of separate issue areas (e.g. linguistic rights, religious rights, etc.) to institutionalization of the given norms domestically to qualitative improvement of minorities' living standards.⁹ While examination of minority rights implementation is important, the lack of relevant comprehensive and systematic data makes the task of selecting representative cases on such a criterion practically impossible. On the other hand, the scope of the FCNM is much wider than any 'issue area' taken separately. Indeed, it encompasses a wide range of norms and principles that signatory states are required to adopt (see Section 2). This is why (at least theoretically), the adoption of FCNM post-accession, as opposed to the adoption of individual norms proves more difficult and more controversial. Hence is the focus on adoption of FCNM as an issue area in itself post-accession.

Given the research question, geographical move beyond the EU member states is a necessity. The predominant focus of Europeanization studies on the EU (candidate and member) states restricts our ability to test for alternative explanatory factors. Designing the study as to render the main explanatory variable – 'EU conditionality'

⁹ For the analysis of the conceptual difference between formal and behavioral compliance see Section 1 of Chapter II.

– irrelevant will allow us to analytically differentiate and single out other/alternative mechanisms of influence. This means, while one of the countries should be chosen among the new EU member states (since they were subject to Copenhagen Criteria), the other should be selected from non-EU/non-EU candidate countries, those who do not have imminent prospects of becoming EU accession candidates in the near future. The geographical scope for country selection presents a wide range of possible cases, encompassing the CoE and the OSCE states (given the central role that these IOs play in European minority rights governance, and the fact that they have no ‘strict conditionality’ with incentives structure). The rationale behind restricting the choice of possible cases to the ENP states only, is to increase variation on the dimensions of theoretical interest (Seawright and Gerring, 2008: 296) – in particular, the role of normative influence of the EU as an IV¹⁰. EU is an important actor in the region, a ‘normative power’ (Bicchi, 2006; Diez and Pace, 2011), which has a separate identity to that of the CoE, or the OSCE.

Among the new EU-member states, only Latvia satisfies the criteria as mentioned above of FCNM adoption post-accession. Latvia adopted the FCNM on the 6th of June 2005, after its accession to the EU on May 1, 2004. Among the ENP states, there are two countries satisfying the criteria: Ukraine that adopted the FCNM on January 26, 1998 (and became a member of the CoE on November 9, 1995) and Georgia that adopted the FCNM on December 22, 2005, after its accession into the CoE on April 27, 1999. To increase the prospects for cross-case generalization, Georgia was chosen as a case study, due to its size, issues with minorities, and democracy credentials (it

¹⁰ In Chapter II, research hypotheses (IV) of this thesis are developed. These are also summarized in the first paragraph of Section 7 of this thesis. Of particular relevance to the choice of case studies is ‘pro-European/Western identification/orientation.’ 50

scores better than Ukraine)¹¹. While trying to examine the explanatory factors fostering ‘post-accession’ changes across these two states, each of them will be subject to intensive qualitative analysis (Seawright and Gerring, 2008).

Latvia presents one of the most theoretically puzzling cases. Notwithstanding the fact that the pace of reforms in minority protection has ‘somewhat decreased’ (Weissert, 2001), Latvia continued its reforms in the field. Latvia honoured its promises both to the EU and the CoE by ratifying the FCNM in 2005, after a year of its membership in the EU. Due to the sheer size of its minorities and domestic opposition to minority rights reform, norm adoption post-accession presents a challenge for dominant theoretical approaches (Schimmelfennig, Engert and Knobel 2006: 235). On the other hand, the intensity and visibility of international involvement in the area pre-accession makes Latvia the strongest test case of the EU’s transformative impact on legislative and behavioral change (Goggin et al., 1990).

Unlike in Latvia, where the EU served as the main international force providing incentives for improving the state of minorities, the main external agent of change in the case of Georgia is the CoE. While membership in the CoE was made conditional on the promise of future reform, Georgia continued undertaking reforms in the field, although no material incentives were provided. The possible influence of the EU on the state of minority rights in the case of Georgia is of indirect nature. While minority rights, as an issue, rarely features as a subject in the EU-Georgia relations, EU’s ENP annual progress reports serve as an additional channel/mechanism of influence/pressure for the Georgian government to bear (see Chapter II). Thus,

¹¹ Georgia one of the most successful cases of democratic transitions in the post-Soviet space (Freedom House 2014 Report). According to the report, among the post-Soviet states bordering with the EU, Baltic States (Estonia, Latvia, Lithuania) being members of the EU are now consolidated democracies (with Latvia scoring the least among its Baltic peers), Ukraine, Moldova, Georgia, Armenia represent the ‘partly-free’ part of democratic world. Azerbaijan and Belarus, in turn, seemed to have established what some term as ‘consolidated autocratic regimes’.

Georgia represents a test case for normative influence of the IOs (EU and CoE), as (a) its membership into Council of Europe was granted on Georgia's mere promise for future reform and (b) it has never been officially considered as an EU candidate state (and hence given material incentives for change).

7 Structure of thesis

In the next **Chapter II**, the theoretical framework of this thesis is developed, and explanatory factors (IV) are presented. In general terms, these are divided into country-level and issue-specific explanatory factors. Among country-level explanatory factors are (H1.1) 'Ruling government's orientation/identification' – that is, normative importance the ruling government attaches to the membership of an international organisation (e.g. EU/CoE), (H1.2) 'ruling government's stance towards minority rights norms' – vision the ruling government has of minorities as being a part of society or not; and (H5) 'presence of alternative leverage mechanisms' – availability of preferential trade agreements, financial aid, etc. to incentivise reforms. These factors may change over time, but stay constant across the issue areas. Issue-specific explanatory factors encompass (H2) 'domestic salience of norms among the general population' – if international norms match with pre-existing domestic collective understandings and identities of the general population and (H3) 'domestic adjustment costs' – economic and political costs associated with transposition of the norms into domestic legislation and their implementation. In addition to this, it is hypothesized that (H4) 'presence of veto players' can have a negative effect on compliance pattern with IO recommendations. At last, it is hypothesized that change is a result of a 'pull' from bottom-up' (H6) – presence of a demand for change domestically by organised domestic non-governmental actors.

After research methodology and critical assessment of data collection techniques are presented, the Chapter elaborates on systemic and within-systemic differences across Latvia and Georgia, as well as cross-country similarities between the two. Within the scope of this discussion, prospective compliance scenarios with individual issue areas are discussed. Among the systemic differences are (a) availability of alternative incentive mechanisms post-accession and (b) membership in different IOs. Within-systemic differences, on the other hand, encompass (a) size of minorities, (b) mode of their protection, and (c) representation of minorities in national parliaments. Similarities across the cases include (a) Soviet institutional legacies and European identification, (b) lack of salience of minority rights, and (c) involvement of Russia as a ‘kin-state’ (in Latvia) and regional power (in Latvia and Georgia). In line with the *Most Different Systems Design* (MDS), it is suggested that pro-European orientation and/or identification within Latvia and Georgia served as a precedent for ratification of the FCNM post-accession in both countries.

The following Chapters III & IV on Georgia and Chapters V & VI on Latvia, together, form the empirical part of the thesis. Chapters III & V present the analysis of formal compliance with general provisions of FCNM in Georgia and Latvia respectively. On the other hand, Chapters IV & VI focus on compliance with separate issue areas that were particularly problematic and hence subject to considerable international attention in Georgia and Latvia respectively. In particular, Chapter IV focuses on compliance (formal and behavioral) with linguistic rights, religious rights, and non-discrimination provisions in Georgia post-accession. Chapter VI focuses on compliance (formal and behavioral) with linguistic rights and the issue of non-citizens post-accession. In line with comparative research methodology, Chapters III & V on

the one hand, and Chapters IV & VI on the other are structured in a similar way. However, given the systemic and within-systemic differences outlined above, the structure of the corresponding Chapters is not identical. This allowed accounting for the presence of different explanatory variables (e.g. presence of alternative external incentives in case of Georgia). In general terms, Chapters III & V start off by sketching out the background on minority rights in Georgia and Latvia respectively. In this regard, the chapters elaborate on international obligations undertaken by the countries, challenges of implementation of these recommendations domestically and changes adopted post-accession. Afterwards, analysis of the role of ‘top-down’ processes post-accession is presented, whereas the following section focuses on ‘bottom-up’ processes. Then, by using process tracing, comparative analysis of the ‘top-down’ and ‘bottom-up’ processes (and associated explanatory variables) is presented. This section aims to establish the link between country-level explanatory variables and adopted policy and legal changes, and consequently sets out expectations for the prospective implementation of adopted policies. Chapters III & V conclude by focusing on the question of *why given the lack of material incentives was the FCNM adopted post-accession?*

Chapters IV & VI, on the other hand, focus on formal and behavioural compliance post-accession with the most problematic issue areas against issue-specific explanatory variables. These chapters are structured in the following way: First, the chapter presents the international recommendations by IOs, as well as the challenges of implementing these recommendations, and then contrasts these with the post-accession implementation of the recommendations. Each section focuses on separate issue areas and concludes with a comparative assessment of the implementation of all recommendations pertaining to the issue under investigation. The subject of

analysis in Chapter IV are religious rights, linguistic rights, and the issue of non-discrimination legislation in Georgia. Chapter VI focuses on the implementation of the issue of non-citizens and language rights in Latvia. At the end of the chapter, a general comparative analysis of implementation across issue areas is presented.

In **Chapter III**, formal post-accession changes in Georgia are examined against country-level explanatory factors: the ruling government's identification/orientation with/towards Europe/West (H1.1) and its stance towards minorities (H1.2), and the presence of alternative leverage mechanisms (H5). The chapter establishes a link between formal changes and the country-level explanatory variables in this case. In particular, it shows that a pro-European identification/orientation and a pro-integrationist stance of Georgia's ruling government towards minorities went in parallel with the adoption of international recommendations. Thus, for instance, Gamsakhurdia's alienation from the West was accompanied by an exclusionary rhetoric against minorities, while Shevardnadze's attempts to position Georgia between the 'West' and the 'East' was reflected in the adoption of a few legislative acts and establishment of (some) relevant institutions, without adequate implementation. Similarly, Saakashvili's determination to 'return to Europe' and more integrationist approach towards Georgia's national minorities was accompanied in the adoption of a number of legislative and policy documents, including the adoption of FCNM in 2005.

At the same time, the analysis of the role of alternative leverage mechanisms (H5) in fostering compliance with IO recommendations has shown, presence of alternative incentives in the form of signing of the Deep and Comprehensive Free Trade Agreement (DCFTA) (since 2008) between the EU and Georgia, did not entice the

Saakashvili's government into the adoption of associated reforms (specifically, adoption of the comprehensive anti-discrimination legislation). It was not until Margvelashvili came to power when the carrot of the DCFTA was used. The chapter concludes that rather than altering domestic cost-benefit calculations, (and hence constituting a powerful tool for change in itself), the presence of alternative incentives mechanisms in the form of signing of the DCFTA was effective in cases it was in line with the government's economic policies. Among other things, Margvelashvili's government preference for more stringent anti-monopoly regulations and a more employee-centered Labour Code served as a positive precedent for eventual signing of the Agreement.

Against this background, analysis of bottom-up factors (H6) shows, the existence of institutional impediments to forming political parties on the regional basis, as well as the failure of Georgia's minorities to effectively mobilise around the issues of minority rights restricts bottom-up avenues of influence.

Consequently, it is suggested that the likelihood of behavioral compliance with post-accession recommendations is higher from 2003 when Saakashvili came to power. Analysing why having adopted the FCNM, Georgia failed to ratify the ECRML, Chapter III concludes that Saakashvili's government adopted the FCNM to boost its international reputation. However, rather than trying to boost its reputation at all costs, adoption of the FCNM was possible, as it did not pose a threat to the ruling government's nation-building policies – the reason why ECRML was not adopted. Thus, while adoption of the FCNM did not directly contradict Saakashvili's national project, based on the principle of integration of national minorities into Georgian societal culture, adoption of the ECRML was seen as a precedent for the

strengthening of minorities' self-identification – something that is considered as a precedent for secessionist movements to take place.

Chapter IV presents the analysis of the post-accession implementation of linguistic rights, religious rights, and non-discrimination provisions against issue-specific explanatory variables: domestic adjustment costs (H3), the salience of norms among the general population (H2) and the presence/absence of veto players (H4). The analysis shows that the implementation pattern of IO recommendations in this regard is not uniform and vary across issues. The chapter shows that issue-specific explanatory variables failed to predict the outcomes consistently. In the area of linguistic rights, in the absence of opposition/veto players, economic and/or institutional costs did not influence the pattern of norm adoption. Thus, despite high economic and institutional costs, (a) ‘full compliance’ with recommendations regarding providing minorities equal access to higher education, (b) ‘partial compliance’ with recommendations related to teaching of Georgian language to minority schoolchildren, and (c) ‘no compliance’ with recommendations related to training in minority languages was observed. While high economic/institutional costs did not serve as an impediment to reform, the salience of norms among the general population was positively associated with the outcomes: normative resonance for the teaching of Georgian language and providing equal access to higher education was associated with an implementation pattern of norms in the given area. In the same vein, low normative resonance for the teaching of/in minority languages exhibited in the lack of implementation of related recommendations.

In the area of religious rights, under low domestic economic and/or institutional costs, implementation pattern was linked to the presence of veto players, domestic opposition and salience of norms domestically. Thus, lack of implementation of the

(a) policies related to restitution of religious properties confiscated during the Soviet rule to minority religious groups as well as (b) provisions related to secularization of educational establishments was associated with active opposition of the Georgian Orthodox Church (GOC) (as well as its role as a veto player in the realm of education) and lack of normative salience of these policies among the general population.

However, the analysis of compliance with anti-discrimination provisions shows, under low economic and/or institutional costs, despite the presence of domestic opposition and a low normative salience of the issue among the general population, formal compliance still takes place.

Against this background, country-level explanatory variables were used to account for inconsistent outcomes exhibited by issue-specific explanatory variables. The chapter concludes that in Georgia, international pressure post-accession was successful in cases where IO recommendations went in line with the ruling government's preference: its nation-building and economic policy imperatives. In particular, more successful compliance pattern with the recommendations regarding (a) providing minorities equal access to higher education and (b) teaching of Georgian language to minority schoolchildren was in line with the government's nation-building policies, based on the integration of minority nationals into Georgian societal culture. On the other hand, the change in government (and its economic policy, favouring more stringent regulations and a Labour code widening the rights of employees) incentivised signing of the DCFTA in June 2014 (the 'carrot' that was available since 2008), within the scope of which a comprehensive anti-discrimination law was adopted in April 2014. While economic imperative determined the fate of the DCFTA, the presence of domestic opposition to the law by GOC led to the adoption

of a more restricted version of the originally proposed draft law. Thus, while the ruling government's preferences determined the form of post-accession changes, the presence of active domestic opposition and/or veto players in the face of GOC has (negatively) influenced their content and implementation pattern.

In **Chapter V**, post-accession formal changes in Latvia are examined against country-level explanatory variables: ruling governments' orientation/identification (H1.1), their stance towards minorities (H1.2), and the presence/absence of veto players (H4) in ruling coalition governments. The chapter also elaborates on the bottom-up processes of change (H6). This chapter shows there is a tentative link between a government's EU orientation and policies adopted in the post-accession period by the governments of Goldmanis, Dombrovskis I, Dombrovskis II and Straujuma. From 2004 to 2007, all parties in the Saeima (except *For Human Rights in United Latvia* (PCTVL) – which was strongly pro-minority) had pro-EU orientation. This period saw the adoption of the FCNM – the major post-accession development to date. After 2007, support for the EU has declined. Combined with the effects of the global economic crisis of 2008, it led to an increased Saeima activity in the minority rights field. The parliament ratified a number of legislative and policy changes, both restricting and broadening the rights of minority rights. Thus, after 2007, ruling government's pro-EU identification/orientation failed to predict the outcomes consistently. More conclusively/consistently, the chapter shows that veto players in coalition governments do not define the form of adopted changes. Given the inconsistent pattern of outcomes exhibited by country-level explanatory variables, the chapter develops an alternative explanation and suggests that changes were introduced as a *reaction* to preceding crucial events, internal and external, that revived the government's sensitivities around the issue of language and security.

The analysis of ratification of the FCNM further showed while international pressure bore fruits in terms of formal ratification of the Convention, domestic political considerations defined the content of it.

Elaborating on the bottom-up influences, the chapter shows that mobilisation of the population around the issue of language had a positive effect on preventing reform backsliding in the area of education in minority languages post-accession. It also shows that in the post-accession period, Latvia's citizens started exploring new avenues to exert pressure on their government via EU institutions – the European Parliament in particular. This has been particularly evident in the issue of non-citizens. However, these attempts have not been successful in fostering changes domestically so far.

Chapter VI presents the analyses of the implementation of linguistic rights and the policies pertaining to the rights of non-citizens in Latvia against issue-specific explanatory variables: domestic adjustment costs (H3) and salience of norms among the general population (H2). The comparison across citizenship and linguistic policies show that neither [negative/positive] salience of norms, nor [presence/absence] domestic adjustment costs were sufficient to determine compliance pattern with international recommendations. The chapter shows, pre-accession reforms both in the area of linguistic rights and citizenship rights have largely remained intact. On the other hand, international recommendations in the realm of language and citizenship rights post-accession have been partially met by the government. In this regard, the few reforms that were introduced in the post-accession period – such as the new Citizenship Law of 2013 and amendments to the Education Law of January 2012, have to a great extent preserved the *status quo*, leading to minimal policy change.

Against this background, an analysis of compliance against country-level explanatory variables shows that the introduction of (some of) the issue specific policies took place as a *reaction* to either domestic internal or external events (such as referendums, Ukraine crisis, etc.). Thus, for instance, the 2012 amendments to the Law on Education were introduced in the aftermath of the referendum on the status of Russian language as a state language. Process tracing analysis has also shown that domestic civic activism with regard to the issue of language plays an important role in preserving the compromise that has been established in 2004.

In concluding **Chapter VII**, the main findings of this thesis are summarised. Namely, first, the influence of IOs on states after accession is limited. Adoption of the FCNM in both countries is explained in terms of the ruling government's reputational concerns to safeguard an image of being 'good European citizens.' However, reputational concerns, when and if present, were only effective to the extent of forging *formal* (as opposed to *behavioural*) compliance. Behavioural compliance, on the other hand, was tamed by the ruling government's stance towards minorities and domestic political considerations (including domestic opposition to reforms). Against expected scenario, top-down influences were not more successful in Georgia, in comparison to Latvia. In Georgia, international recommendations were upheld in cases where they did not run against existing domestic institutional practices (with regard to minority rights protection) and the ruling government's policies towards minorities.

Secondly, bottom-up processes in the post-accession period take place indeed. In line with the hypothesized relationship, these processes are more influential in Latvia, rather than in Georgia. Even though the effects of increasing activism on the part of Latvia's citizens on actual policy change was questioned, the research has shown

that Latvians engage on different levels of (EU) governance, in an attempt to ‘upload’ their concerns on the EU level, as well as domestically.

Issue specific compliance trends have shown, in Georgia, the implementation of IOs recommendations regarding the teaching of Georgian was prioritized over recommendations concerning the teaching of, and in, minority languages. In the area of religious rights, recommendations regarding providing the minority religious groups legal status (that is, recognition as a religious organisation) was prioritised over the recommendations to address the issue of restitution of religious properties confiscated during the Soviet period. In Latvia, provisions ensuring education in minority languages have largely remained in place. In comparative perspective, implementation of recommendations regarding the issue of citizenship rights post-accession has been more successful than recommendation with regard to linguistic rights. At the same time, while the issue of non-citizens has gradually come off the political discourse, the same cannot be said about the issue of language. Language remains a contentious issue that is (especially) politicized around important events, such as the Saeima elections, referenda, etc.

The analysis of cross-issue variation in Georgia has shown, the international pressure in the post-accession phase was successful in cases where IO recommendations went in line with the government's preferences. In particular, this related to its vision of nation-building and economic policies. At the same time, while government preferences determined the form of post-accession changes, domestic veto players have significantly shaped the content and the quality of their implementation. In Latvia, however, none of the (country-level and within-country) explanatory variables provided a satisfactory explanation for post-accession norm adoption. This thesis developed an alternative explanation to account for post-accession changes in

Latvia. In particular, the process-tracing analysis showed that changes were introduced as a *reaction* to domestic socio-economic/political considerations and/or preceding 'crucial events,' internal and external, that revived government's sensitivities around the issue of language and security. Thus, for instance, the 2012 amendments to the Law on Education were introduced in the aftermath of the referendum on the status of Russian language as a state language.

The comparison across countries in the post-accession period showed norm implementation (as opposed to mere formal adoption) has generally been better in Latvia than Georgia. This has been particularly evident in the area of education in and of minority languages. However, Georgia exhibited a better performance with regard to formal compliance: the rate of (positive) formal legislative and policy changes post-CoE accession has been higher in Georgia, than in Latvia after it became an EU member-state. Secondly, comparing changes across issues in both countries has shown, promotion of the use of state language, in public and private spheres, as a policy imperative has been heavily prioritised over all other issues. Thus, political debates and discussions over the question of language have (quantitatively) superseded all other considerations.

The centrality of the issue of language has been explained in terms of institutional legacies of the Soviet system, during which studying in Latvian or Georgian was not encouraged among ethnic minority groups living in Latvia and Georgia respectively. Once both countries regained independence, a vast majority of the minority population could not speak the state language. Interestingly, the Russia adds to sensitivities surrounding the issue of language, but in different ways. In the Latvia case, Russia plays the role of a kin-state that actively propagates the rights of the so-called 'Russian-speaking minority.' This factor feeds into the fears among Latvia's

politicians about Russia's willingness to affect Latvia's politics, and that in case all its demands were met, that Latvians could lose their cultural identity. These fears are elevated to the rank of the country's security matters. In Georgia, the nature of the problem stems from Russia's active support of Georgia's breakaway regions – *de facto* independent South Ossetia and Abkhazia. There is an inherent fear that nourishing cultural identities of minority nationals living in compact settlements can serve as a precedent for future secessionism, and make Georgia vulnerable to any prospective attempts by Russia either to ignite such movements or support the existing ones.

CHAPTER II. Theoretical Framework, Methods

In Chapter I, the puzzle that forms the basis of this research was presented. Namely, *what explains compliance with minority rights norms, given the lack of external positive incentives post-accession?* The puzzle was situated in the broader Europeanization literature, within the scope of which the issue of change in minority rights practices has been analysed. Given the lack of foundation of minority rights in the EU law, an analysis of post-accession changes requires using a broader definition of Europeanization – one that surpasses the unidirectional – top-down – impact of the EU institutions on its candidate or member-states. Given the geographic focus of the thesis, the definition should also go beyond the EU member states and the candidate countries. This chapter develops the theoretical framework, within which (a) post-accession ratification of the FCNM in Georgia and Latvia and (b) post-accession compliance with minority rights norms in these two countries, in general, will be analysed. In this regard, it develops research hypotheses, based on rational institutionalist and constructivist theoretical approaches. Additionally, both top-down and bottom-up processes are taken into account.

1 Conceptual Framework: Europeanization and Compliance

As has been outlined in Chapter I, this study is based on cross-case comparison with within-case analysis of the compliance with ethnic minority rights in Latvia and Georgia. Thus, 'compliance' represents one of the key concepts used in this thesis. In the following sections, the conceptual framework of this thesis will be presented. In this regard, *compliance with International Organisations' (IO) recommendations* as the dependent variable (DV) will be elaborated on in detail. Consequently, the

theoretical framework of this thesis is presented, based on rational institutionalist and constructivist theoretical approaches, incorporating both 'top-down' and 'bottom-up' approaches to domestic change.

1.1 Compliance – dependent variable (DV)

'Compliance with IO recommendations' in the form of *minority rights norm adoption and implementation post-accession* constitutes the dependent variable (DV) of this thesis. In line with existing scholarship, this framework differentiates between *formal* and *behavioural compliance* (Schimmelfennig and Sedelmeier, 2005; Falkner et al., 2007). Formal compliance is defined as *norm adoption* – i.e. formal ratification and/or transposition of international conventions into national legislation (Schimmelfennig and Sedelmeier, 2005: 7). Behavioural compliance, on the other hand, refers to *the implementation* of transposed norms – i.e. their institutionalisation (application and enforcement). Analysis of formal compliance with FCNM provisions, in general, is subject to Chapters III & V, whereas as behavioural compliance with specific issue areas will be analysed in Chapters IV & VI. In particular, Chapter IV on Georgia elaborates on implementation of religious rights, linguistic rights, and the anti-discrimination legislation. On the other hand, Chapter VI on Latvia elaborates on implementation of IO recommendations regarding the issue of non-citizens and linguistic rights in general.

Unlike norm adoption, implementation of adopted norms is a multifaceted process. It encompasses different strategies and policy prescriptions, ranging from "accounting procedures to incentives [...], and from public admonishment to sanctions for noncompliance" (Jacobson and Weiss, 1995: 4). Behavioural compliance, or implementation of norms, is thus measured against *policy/legal* and *institutional*

initiatives designed to “translat[e] policy into action” (Raustiala and Slaughter, 2002: 539), in consistency with the spirit of existing norms, with the aim to improve the current state of minority rights practice.

Operationalization of behavioural compliance requires a differential approach – that is, case-by-case approach, primarily for two reasons. First, there is no standard procedure that IOs follow when making recommendations. These recommendations are made on a case-to-case basis, depending on the state of minority rights (i.e. scope and depth of problems) in each country. Second, international conventions – the FCNM and ECRML in particular, provide no clear benchmarks against which compliance with minority rights can be measured. Measuring compliance, at first sight, might imply, by definition, that there is a clear and stable policy intent that transfers policy directives into actions. This, however, is almost never true (Nakamura, 1987: 142). International accords are usually formulated in very vague terms, lacking precise definitions and measurement benchmarks. As has been stated before, the EU's Copenhagen Criteria also suffers from vague concepts, such as ‘stability of institutions’, ‘rule of law’ or ‘respect for human rights’ that lack clear measures and benchmarks, which turn the EU's own monitoring and assessment into a political judgment (Grabbe, 2006). Hence, progress in each instance should be analysed on an individual basis.

Given the need for differential approach, indicators for formal and behaviour compliance are presented for each recommendation separately, under relevant chapters. Developing indicators for each issue area will also help overcome the problem of indeterminacy. Indicators of formal and behavioural compliance are formulated in the following way: in the first place, international reports are examined

for issue-specific recommendations. A background analysis of the relevant issue areas is done afterwards to set the measurement benchmarks against which the progress will be judged. In this way, the thesis develops indicators that would help identify if progress was made at all. Below, development of indicators of formal and behavioural compliance with religious rights in Georgia will be given as an example.

For Georgia, international recommendations regarding the fundamental aspects of protecting religious rights of minorities were (1) the legal status of minority religious denominations vis-à-vis Georgian Orthodox Church (GOC); (2) restitution of religious properties confiscated during the Soviet period (3); and tackling religious discrimination, including discrimination in educational establishments. As Georgia became a member of the Council of Europe (CoE) in 1999, its religious minorities enjoyed a different status to that of the GOC - 'majority religion.' In fact, GOC was the only officially recognized religious denomination in Georgia. While the status of other faiths was not established by the Georgian legislation, minority religious organizations were not entitled to register as private law legal persons. This status made it impossible for religious minorities, among other things, to acquire state property through the procedure of direct sale, claim rights to property (churches, mosques), rent office space, construct buildings of worship, teach their religious doctrines, and import-export religious literature. At the same time, and secondly, another outstanding issue was the restitution of properties to minority religious denominations, confiscated during the communist regime. The government failed to return or maintain religious properties claimed by minority religious groups, which, in general, by government entities (U.S. Commission on International Religious Freedom, 2013). The total number of religious properties the ownership over which

was contested by religious minorities is as follows: Armenian Apostolic Church – 6, Catholic Church – 5, Evangelical-Lutheran Church – 1, Mosques – 18, Synagogues – 8. Thirdly, religious discrimination in the form of forceful imposition of religious practices on members of religious minorities constituted another concern for IOs.

Given this background, compliance with the CoE recommendations regarding religious rights would imply, first, providing equal legal status to religious minorities to that of the GOC; and eliminating obstacles to registering religious groups as religious organizations/entities of public law and to practicing their religion freely. Secondly, compliance with the CoE recommendations would indicate handing religious properties that were confiscated during the Soviet period back to the corresponding religious groups. Thirdly, the government would have to eliminate religious symbols in classrooms and well as prevent the practice of forceful imposition of religious practices on members of religious minorities. This should be reflected in the decrease in the number of complaints submitted against such accusations. The indicators of formal and behavioural compliance with religious rights in Georgia is summarised in Table 2.1 below.

Table 2.1: Example table of indicators of formal and behavioural compliance with religious rights in Georgia

	Formal compliance	Behavioural compliance
Legal Status	a) Adoption of a specific law on religion that would offer <i>proper and equal</i> legal status and protection to all faiths and denominations in the country (CRI(2010)17) b) Adoption of legislation allowing registration of religious organizations c) Establishment of a specialized body that could effectively and independently monitor the situation regarding the issues of human rights, racism and intolerance.	a) Elimination of obstacles to acquire and build places of worship (CRI(2010)17)b) Establishment of mechanisms to punish (hear, process complaints) religious based discrimination/attacks/etc. c) Elimination of obstacles to registering as a religious organizations/entities of public law (this relates to point a and 2 as this right should enable religious organizations to acquire property for religious purposes) (CRI(2010)17)

Restitution of Religious Properties	Adoption of regulations concerning the restitution: resolve the outstanding issues regarding the return, to their respective denominations, of historical religious properties, confiscated during the Soviet era (PACE (2011)1801)	Physical return/handover of religious properties to respective religious denominations
Secularising Education		<ul style="list-style-type: none"> a) Elimination of religious symbols in classrooms and well as the practice of forceful imposition of religious practices on members of religious minorities. b) Eradication of all textbooks that do not reflect the idea of interfaith tolerance. c) Preventing the practices of forceful indoctrination of Orthodox Christianity in public schools

It is important to note that rather than being absolute, compliance is a matter of degree (Dai, 2005). Thus, the real question is often not whether countries comply with the norms or not, but rather how much they comply. When examining compliance with minority rights norms, this thesis categorises compliance as ‘full compliance,’ ‘partial compliance’ and ‘no compliance.’ Thus, for example, full compliance with IO recommendations regarding the issue of ‘restitution of religious properties’ in Georgia would indicate physical handover of all (38 claimed) religious properties to corresponding religious groups. Whereas the ‘partial compliance’ would indicate partial return such properties. ‘No compliance,’ on the other hand, would indicate no progress made on this issue.

Compliance with IO recommendations is explained within the Europeanization research framework. In the section below the concept of Europeanization, as employed by this thesis will be explained. At the same time, the theoretical framework of the thesis will be presented. The section will then follow by a summary of explanatory variables – research hypotheses of this thesis.

1.2 Europeanization

Defining Europeanization is no easy task. Even more so, when one aims at applying “Europeanization [framework] beyond Europe” (Schimmelfennig, 2012) – that is, countries that have no immediate prospects of becoming EU member states. Indeed, as has been shown in Chapter I, there is no common definition of Europeanization. Existing usages range from defining Europeanization as a *process* of *subjugation* (Börzel, 1999) to *reorientation* (Ladrech, 1994) of national policies to/towards European policy-making. In this thesis, Europeanization is defined as a process not restricted to the influences *by* the EU *on* the EU – it is defined as Europeanization beyond ‘EU-ization.’ It is based on the concept of ‘Europe’ that goes beyond the legal and geographic scope of the EU. ‘Europe,’ unlike the EU as a political entity, represents an ‘ideal,’ constitutive of certain norms (Featherstone, 2003) – an *identity* that helps differentiate one-*self* from *others*. Being *European*, at the very least, means being non-Asian, -American, etc. At the same time, Europeanization processes provide states with new avenues for interaction on different levels of governance. Each level is constitutive of its institutional and organisational practices.

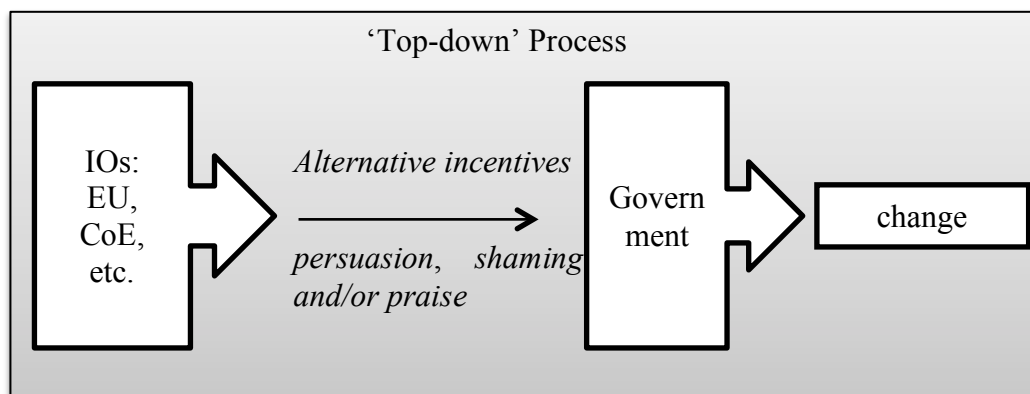
Following Goetz (2002), Europeanization is treated as a *process*, encompassing top-down and bottom-up processes, which shape domestic policy making. Hence, to paraphrase Gualini (2004), rather than being treated as *explanans*, an end in itself, Europeanization is seen as *explanandum* - requiring an explanation of the processes taking place inside.

‘Top-down’ Europeanization

Taking a *process*-oriented view on Europeanization allows us to account for both ‘top-down’ and ‘bottom-up’ processes that might operate at different points in time.

Unlike ‘bottom-up’ processes, ‘top-down’ influences originate at the level of European institutions, which enact rules, norms and ideas that are later adopted domestically, resulting in due institutional changes (Börzel, 2002: 195). As is depicted in Figure 2.1, the direction of influence is from supranational to the national level:

Figure 2.1: ‘Top-down’ process of change



The impact of ‘top-down’ influences depends on a variety of rationalist and ideational factors. According to rationalists, domestic policy change depends on the ‘size and/or scale of incentives’ that are tied to a given recommendation (Schimmelfennig and Sedelmeier, 2004; Schimmelfennig and Sedelmeier, 2005). According to this view, in the presence of external material incentives, the ‘carrots’ must be big enough to upset domestic political and economic costs for incentivizing norm adoption (Schimmelfennig and Sedelmeier, 2005).

Constructivism, on the other hand, stressed the importance of normative considerations in guiding states' preferences. At the centre of this approach lies the concept of *identity*. Identity determines the behaviour of states internationally (Eyre and Suchman, 1996) and shapes their preferences domestically. While material interests shape states' identities, they are by no means the sole and determining source of states' preferences (Wendt, 1999). These preferences can stem, first, from state's

understanding that it is a part of a regional and/or civilizational order - e.g. European, Asian, etc. (Eyre and Suchman, 1996). The desire to establish themselves as a part of such an order might foster elites to behave in a way as to seek recognition of its membership amongst its 'civilizational peers.' Those elites that actively seek such recognition may be more willing to comply with the norms established on the regional/local level (Eyre and Suchman, 1996). This is particularly true for newly independent developing countries that are sensitive towards developing a reputation of law respecting countries (Keohane, 1984).

It is within this scope that membership in European organisation carries an *ideational* dimension. The EU and the CoE, as organisations, are representatives of certain norms and behavioural practices that are based on a shared understanding of appropriateness. Membership in these organisations, symbolically, is a demonstration that they stand for *European* norms and values, however defined. In other words, they are constitutive parts of what make makes Europe - *Europe*. Thus, while both the EU and the CoE (and other IOs) are treated as independent actors, they play a prominent role in the process of European (as opposed to the EU) community formation.

Taking its roots in the work of Bull (1977), constructivists believe that it is only through the presence of 'international society' marked by shared norms and beliefs that could make compliance with international norms possible. International organizations, as the embodiment of certain value systems and norms, are seen as playing an important role in changing state actions by changing their preferences through the process of *interaction*. According to this view, identification of countries with certain regional and/or civilizational order makes them more susceptible for possible *shaming* in the case on non-compliance.

Secondly, state's preferences can stem from the principled concerns and considerations of morality (Finnemore, 1996: 87). Hence, their motivation to comply with international recommendations can be based on their conviction that it is the appropriate thing to do. As was highlighted in Chapter I, under such a scenario, the likelihood of compliance with international norms increases the more they *resonate* with pre-existing domestic norms or collective understandings and identities embedded in a social and political culture (Checkel, 1999; Cortell and Davis, 2000). However, this is not to say that identity is static. The domestic communicative environment is loaded with accepted normative frameworks (Keck and Sikkink 1998: 208; Risse 2005: 361), ranging from established cultural narrations that are part and parcel of one's cultural heritage (e.g. stories, myths, and folktales) (Snow and Benford 1988: 210) to domestic cultural definitions of nationhood and statehood (Eyre and Suchman, 1996). Once domestically established frameworks are in contradiction with the spirit of minority rights norm a "cultural mismatch" (Checkel, 1999) occurs, and adoption and implementation of international recommendations become more difficult.

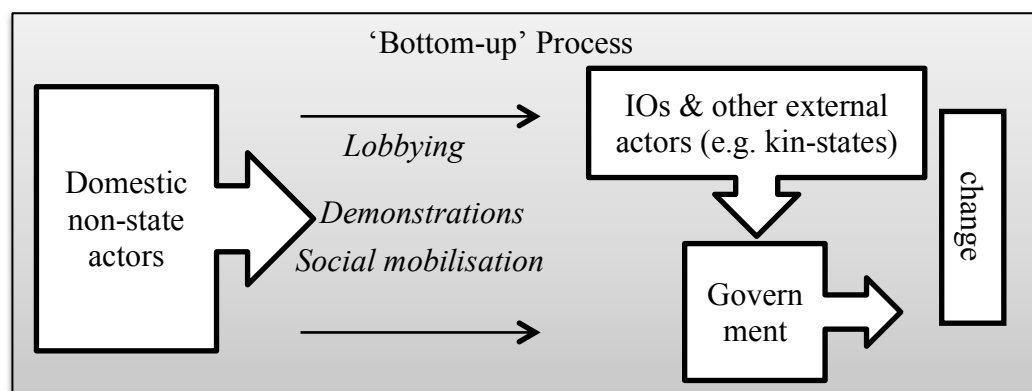
Against this scenario, membership in IOs provides new avenues for governing elites to socialize into new norms through interaction, and hence to construct a new identity (Börzel et al., 2009). In this regard, membership in various European organisations (such as the CoE and the EU itself) and/or the new institutional avenues provided by multi-level governance structures provide "the context...and normative 'frame'...or the opportunities for socialisation of domestic actors..." (Radaelli, 2006: 5). In this top-down approach, international norms are formulated at supranational level and then are being disseminated through discourse (Flockhart, 2005). The governing elites, then through policies can disseminate those ideas domestically. Thus,

interaction among and between agents and structures both produces and reproduces identities. Such interaction can, however, originate on sub-state level – through ‘bottom-up’ processes.

‘Bottom-up’ Europeanization

Bottom-up processes, on the other hand, can be initiated by a variety of domestic non-governmental actors – NGOs, civil society organisations, advocacy groups, etc. – that operate at the national level and try to streamline their demands ‘upwards’ to shape/change domestic policies. It is through social mobilisation, demonstration, lobbying, and similar activities that non-state actors, including minority groups, can influence policy outcomes. As is shown in Figure 2.2, the demand for change comes from the ‘bottom,’ and hence the direction of influence is reversed:

Figure 2.2: Bottom-up process of change



In addition to Börzel’s (2002) definition of ‘bottom-up’ Europeanization that focuses on the ‘upload’ dimension of domestic policy making on European level policies, this thesis is also interested in indirect influences of Europeanization: the processes and venues that were made possible by Europeanization process, which made the domestic non-governmental actors viable enough to change and/or influence their policies domestically, without retorting to European institutions. In this regard,

membership in various European organisations (such as the CoE and the EU itself) and/or the new institutional avenues provided by multi-level governance structures provide new channels and tools for subnational actors to exert pressure on their respective governments.

Following the distinction between ‘top-down’ and ‘bottom-up’ influences made above, it could be expected that ‘bottom-up’ influences will be more influential in Latvia, rather than Georgia, due to a few reasons. First, it is a member of the EU, which provides its citizens more avenues to put pressure on its government through different channels – such as the European Parliament, that provide a regular opportunity to voice their concerns and issues. For Georgia’s citizens, these channels are significantly more restricted. Secondly, Latvia's minority population is much higher in number comparing to that of Georgia’s (See Section 5.2). This gives them significant leverage during elections, referendums and other electoral processes. Thirdly, due to a more developed party politics in Latvia – minorities are constantly represented, unlike in Georgia. Top-down influences might be effective in both cases if their governing elites are willing to establish themselves as ‘good European citizens.’ In this regard, top-down influences might be more efficient in Georgia, due to its willingness to become a member of NATO and its desire to establish itself as a *European state*.

It is important to note, however, the process of Europeanization does not always lead to socialization of countries into international norms of minority rights protection. *Domestic impact* of Europeanization processes is not something static. Neither is it unidirectional. Rather, reactions to Europeanization processes can differ from *convergence* with European norms and rules to *divergence*. The trajectory is determined by the nature of scope conditions and domestic actors.

Based on the conceptual and theoretical discussion presented in this section, research hypotheses of this thesis will be summarised in the section below.

2 Research hypotheses – independent variables (IV)

2.1 Why do states comply: ideational factors

Ruling government's orientation/identification

On a basic level, a distinction should be drawn between norms held by the ruling government on the one hand and the population on the other. If the country's leadership attaches normative/ideational importance to the international organisation that it is a member of (Dessler, 1989), we can expect top-down influences in the form of IO recommendations for the adoption of minority rights norms to be successful. In this regard, the identity of a state as being *European* can foster its ruling government to comply with the norms of international organisations that represent the idea of *Europe* (the EU and CoE in particular). Hence,

H1.1: Compliance is more likely to take place when the ruling government has a 'European' orientation and identification.

At the same time, regardless of the normative/ideational importance that the ruling government attaches to the EU/CoE membership, it has its (own) vision of what kind of minority rights policies it should pursue. The ruling government can enact more

inclusive or exclusive policies regarding minorities, depending on their vision of minorities as being a part of society or not. Thus, when IO recommendations are in line with the ruling government's stance towards minority rights norms, we can expect top-down influences to be effective. Hence,

H1.2: Compliance is more likely when the ruling government has more inclusive stance towards minorities

Domestic salience of norms among the general population

In the same vein, if the norms held by general population run against minority rights norms, compliance becomes less likely. Hence, compliance with the norms depends on the *domestic legitimacy* or *salience* of the norms domestically among the general population – that is, their match with pre-existing domestic collective understandings and identities embedded in a social and political culture (Checkel, 1999; Cortell and Davis, 1996; Finnemore and Sikkink, 1998; Klotz, 1995; Risse-Kappen, 1994). Thus, it follows:

H2: The more normatively salient the norm is domestically, the higher the likelihood of compliance.

As is summarised in Table 2.2, there can be four different scenarios, where in the first two both ruling elites and population are either approving/supportive or disapproving of minority rights norms. In the remaining two, support for minority rights norms diverges – when one supports, the other disapproves.

Table 2.2: Expected outcomes of compliance, given different scenarios of norm salience among the general population and the ruling governments

	Scenario 1	Scenario 2	Scenario 3	Scenario 4
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Ruling government's stance towards minorities	-	-	+	+
Saliency of minority rights norms among the general population	-	+	+	-
Likelihood of compliance with IO recommendations	Highly unlikely, unless 'adequate' incentives are provided	Less likely, unless 'bottom-up' up influences are strong or external incentives high	Highly likely	More likely, if domestic opposition is not strong

As is shown in Table 2.2, IO pressure is hypothesized to be most effective in the 3rd scenario, where minority rights norms are salient both among ruling elites and population. In this case, domestic opposition to the norms is almost non-existent or small/weak enough not to threaten the ruling government with a vote of no confidence. IOs can also be effective in the last scenario 4, where minority rights norms are salient among ruling elites, but not among the population. In this case, the domestic ruling elite can 'externalise' the responsibility of norm adoption to IO pressure. Such tactics can be successful in case there are no veto players. The presence of 'veto players' can make it more difficult for IOs pressure to bear fruits. IOs can also play a role in scenario 2, by providing domestic non-governmental actors an additional avenue to exert pressure on their respective governments. However, since IOs lack enforcement mechanisms, the success of compliance will mostly depend on the scale of domestic support – whether pro-minority 'movement' is big enough to upset governmental policies. The most difficult case for IO influence is the 1st scenario, where both ruling elites and population are unsupportive of the norms, and where veto players might also be present. Under this conditions, following rationalist logic, incentives provided by IO must be big enough to upset domestic

cost-benefit calculations and to entice the government to comply with the recommendations.

H1.1 & H2 present methodological challenges. This interpretive and contextual approach to the understanding of compliance requires a framework of analysis to understand the role of normative consideration in guiding ruling elite's actions (Simmons, 1998). Another challenge is to operationalize the concept of 'legitimacy' or 'salience' and to assess their change throughout the time. It also requires identification of mechanisms and processes by which international norms can attain domestic legitimacy (Cortell and Davis, 2000). These challenges are addressed separately in Section 3 on operationalization of independent variable below.

2.2 Why do states comply: rationalist factors

Domestic adjustment costs

Apart from ideational factors, domestic adjustment costs can determine the trajectory of states' compliance with international norms. The importance of domestic adjustment costs has been widely acknowledged in Europeanization studies in general (Langbein and Wolczuk, 2011; Schimmelfennig et al., 2006), including the Europeanization studies on minority rights (O'Dwyer and Schwartz, 2010). According to the *External Incentives Model*, to be effective, external political and economic incentives must be big enough to offset the domestic adjustment costs (Schimmelfennig and Sedelmeier, 2005). Hence, it follows that

H3: The lower the domestic adjustment costs, the higher the likelihood of compliance

Domestic adjustment costs can be *economic* and *political* in nature. Compliance with international norms presupposes establishing relevant institutions, programs,

policies, etc. that are vital for effective implementation of the norm in question. This, naturally, brings economic costs to the fore. Political costs, on the other hand, can be incurred if compliance faces strong domestic opposition (Eyre and Suchman, 1996). In case such opposition is strong enough, compliance with international recommendations can prove politically costly – in a democratic system of governance the ruling government can lose its popular support. Consequently, economic and political costs combined make it more difficult for a ruling government to comply with international recommendations. Against the theme of domestic political costs, the role of veto players renders special attention.

A ‘veto player’ could be an individual or collective actor, who has sanctioning power over policy decisions (Tsebelis, 1995). It plays a critical role in setting the agenda and determining the outcome. Veto players vary across and within countries – they can range from courts, referenda, or a single legislation to relevant institutional actors (e.g. political parties) (Hallerberg, 2010: 23). In Latvia, political parties undertake the role of veto players. Even more so, radical ‘right-wing’ political parties that are vehemently opposed to granting minorities more rights, and that at the same time members of the ruling coalition governments are playing the role of veto players. In Georgia, on the other hand, the party system is not well developed. The Georgian Orthodox Church (GOC) is the only actor that could play a role as an institutional veto player in the area of education, as the Article 5 of the *Constitutional Agreement* and Article 18.2 of the Law on Education 1997 provided that all school textbooks must be approved by the Ministry of Education, in consultation with various ministries and the office of the Patriarch. In other issues, when deemed important and necessary, GOC could play a role of an effective domestic non-governmental

opposition, as it has the power to mobilise people.

Tsebelis (1995: 301) suggested the relevance of veto players depends on their number, congruence (dissimilarity of policy positions among veto players), and their cohesion (similarity of policy positions among the constituent units of each veto player). Thus,

H4: The more numerous, congruent and cohesive veto players are, the higher the likelihood of non-compliance

Alternative incentives mechanisms

Following rationalist thinking, it is hypothesized that the loss of bargaining power by IOs post-accession can be compensated by alternative leverage mechanisms, including preferential trade agreements and financial aid (Schimmelfennig et al., 2006; Bútorá, 2007; Pridham, 2008; Levitz and Pop-Eleches, 2010). In line with the pre-accession Europeanization literature, it is hypothesized that compliance is more likely to take place when external incentives are big enough (size and credibility) to alter domestic adjustment costs. Hence,

H5: The bigger the alternative incentives of external actors, the higher the likelihood of compliance.

Given that Latvia is a member of the EU and incentivization of norm adoption through preferential trade agreements and/or financial aid is not a question, alternative leverage mechanisms can only be applied in the case of Georgia. As will be elaborated on in detail later in this chapter, even though EU's monitoring of minority rights has been weak and the attention paid to improvement of rights of minorities rather limited, the use of external incentive mechanisms might be more effective in the case of Georgia, due to a possible issue linkage, (e.g. as in the case of deeper

association agreement under EaP). In particular, we can expect alternative incentives mechanisms to be effective after 2008 when the EU has offered to sign the Deep and Comprehensive Free Trade Agreement (DCFTA) with Georgia.

2.3 Change might be a result of a ‘pull’ from bottom-up

In a country where (urgent/important) demands of minorities are not being addressed by the government, minority groups might mobilise and try to streamline their demands through demonstrations, lobbying, and similar activities both nationally and through ‘other channels’ – e.g. IOs, third countries (foreign embassies at home).

H6: The stronger is the mobilisation of domestic non-governmental actors, the higher the likelihood of compliance.

3 Operationalization of Independent Variables

3.1 European orientation/identification

In the case of Latvia, ‘European identification’ is analysed against the party-political orientation of the government in every Saeima (Parliament) formed since Latvia joined the EU in 2004. This section is based on the data provided by *Chapel Hill Expert Survey* (Bakker et al., 2015b; Bakker et al., 2015a). The expert surveys conducted in 2002, 2006, 2010, and 2014 estimate party positioning on European integration, ideology and policy issues for national parties in a variety of European countries, including Latvia. Interviews with the leading experts and policy makers in the field are used to determine the perceptions interviewees have regarding the EU and its role in fostering respect for/and protection of minority rights in Latvia. Finally, relevant academic literature, reports and government's policy documents are analysed to see how the government justifies adopted policies and if the reference to EU's

practices are made.

In the case of Georgia, the analysis relies on the examination of speeches, press conferences, conference notes, and interviews with third parties of relevant ministers and heads of governments. Secondary literature is also used to sketch the difference in European orientation among the different presidents of Georgia. In the case of Georgia, those speeches are then examined against actual steps that the government took to come 'closer' to EU/Europe. An important question in this respect is if the (different) government(s) of Georgia used all the means offered by the European organizations to integrate with European institutional structures. Alternatively, does 'European orientation' remain on the level of discourse? Here, deeds are considered to be louder than words and indicative of the government's normative considerations.

Pro-European identification/orientation is examined against (a) (the quest for) membership and integration into European institutional structures (e.g. the Council of Europe & EU's Eastern Partnership); (b) strategic documents on foreign policy orientation; (c) discourse. Demonstration of pro-minority stance among governments is examined against (a) establishment of institutions protecting rights of minorities; (c) introduction of policies/strategies for integrating minorities (b) discourse of the key political leaders.

3.2 Salience of norm

The salience of norms will be examined against speeches in the Parliament, relevant legislative proposals and how prominent these issues are during elections period. In the case of Latvia, an extensive use of the database provided by the Human Rights Monitoring Centre of the Latvian Centre for Human Rights is made. Additionally, a few polls conducted by the *Latvian Language Agency* (under Ministry of Education and

Science) and *The Office of Citizenship and Migration Affairs* are used to show the attitudes of the general population towards linguistic issues and issue of non-citizens. In the case of Georgia, public opinion polls provided by the International Republican Institute (IRI) are used not only to determine the attitude of the population towards religious and linguistic issues but also towards the broader integration with Western/European institutional structures.

Following Cortell and Davis (2000), the potential change in the salience of a norm is going to be measured by threefold investigation of changes in the national discourse, the state's institutions, and policy documents (e.g. National Concept on Civic Integration in Georgia and National Programme on the Integration of Society in Latvia). Domestic political discourse reflects demands for a change in the policy agenda by various actors within the state. The voices of proponents of the given international norm will overshadow oppositional forces and delegitimize their preferences. According to Cortell and Davis (2000: 70), this process facilitates the "formation of more organized societal groupings devoted to pressing for domestic institutional change or government working groups or committees charged with formulating policy options consistent with the tenets of the international institution." Domestic institutional change, on the other hand, is embedded in domestic laws and procedures. The norm will enjoy greater salience in the absence or weakening of conflicting domestic institutions, 'establishment of a mechanism designed to address complaints about violations and redress their repercussions and sanction violations.

Ruling government stance towards minorities is measures against party-ideological orientation and the nation-building policies. It is assumed that the parties that are closer to the 'left' spectrum are more likely to be 'pro-minority,' rather than right-wing parties. Another indicator is the civic-ethnic nation-building policies that the ruling

government is adopting. The propagation of the state of civic nationalism will be assumed to be inclusive towards its minorities, and hence be 'pro-minority.'

3.3 Domestic adjustment costs

Domestic adjustment costs are examined against existing domestic legislative and institutional arrangements. In case the international norm fits well with shared legislative structures and legislations, the economic costs of compliance are considered not to be high. Otherwise, costs of compliance are deemed to be high. Thus, for instance, the existence of 'minority schools' both in Latvia and Georgia before their accession to the EU and the CoE respectively, following this definition, keeps economic costs of complying with international norms (requiring providing access to minorities of education in their respective minority languages) low.

On the other hand, analysing political costs would require identifying how strong domestic opposition to the given reform is, and whether that opposition could turn into active actions (e.g. lobbying, demonstrations, etc.) to counteract the reform. The existence of such opposition and/or fertile ground for such opposition to arise is considered to make compliance costly.

3.4 Alternative leverage mechanisms

The presence of alternative leverage mechanisms in the face of external incentives is analysed against international treaties, trade agreements, financial aid, etc. that are offered to the states on a conditional basis in exchange for compliance with minority rights.

4 Methodology and Data Collection

4.1 Process-tracing

The aim of this study is to establish the causal mechanisms that explain outcomes across countries (adoption of FCNM in particular), as well as implementation patterns for specific issues areas of the FCNM within each country case: mechanisms explaining similarities and differences across issues. To establish the causes of legal/policy changes and causal mechanisms that triggered the outcome, this thesis uses what Beach and Pedersen (2013) termed 'theory-building process tracing.' Unlike the other two types - 'theory-testing' and 'explaining outcome' process-tracing (Beach and Pedersen, 2013) that are not suitable for generalisation of findings and causal mechanisms to other cases, and which aim at explaining particular historical cases, theory-building process tracing aims at "build[ing] a theoretical explanation from the empirical evidence of a particular case, inferring that a more general causal mechanism exists from the 'facts' of the case" (Beach and Pedersen, 2011: 2-3). Thus, it is more suitable for drawing comparative conclusions within- and across cases.

As has been stated earlier in this chapter, *minority rights norm adoption and implementation post-accession* constitute the DV of this study. Thus, while the relationship between the 'outcome' and possible causes was hypothesized, based on the existing literature and earlier post-accession studies, the 'effects' of hypothesized IVs are not treated as deterministic. Rather, at this stage, they are treated as being possibly correlated to the outcome, the causal relationship of which needs to be established.

Mechanisms are central to process tracing (Lange, 2012: 48). It is the "transformative action through which the cause produces the effect" (Lange, 2012: 49) either through causal relation or sequence. However, the direction of causation is not always linear.

First, there can be a considerable lag between the cause and outcome – something that Lange (2012: 73) calls "threshold effect," "where an increase in a causal variable has little or no impact on the outcome until it reaches a particular level, at which time the outcome variable transforms rapidly." Secondly, the process can feature asymmetric causation, where the cause has an effect, even after the initial causal conditions are no longer in place. Hence, the aspect of temporality becomes important in accounting for the potential long-term effects of the mechanism. Both linear and non-linear causal processes need to be taken into consideration to give a fuller picture of the effects of international organisations role in minority rights field. First, because none of the IOs (including the EU) have enforcement capabilities in the realm of minority rights and their involvement in their member states is not restricted to the area. Thus, for instance, EU's focus on *good governance* in its neighbourhood might have a positive impact on the state of minorities. Using within-case analysis provides an opportunity to address potential influence of temporality (Lange, 2012: 71).

4.2 Data collection

This research uses triangulation as a data collection method. This includes semi-structured interviews with international and domestic experts, government officials, representatives of civil society organisations and NGOs to account for both 'top-down' and 'bottom-up' influences. Secondly, the research makes extensive use of official documentations, correspondence, as well as legal documents. Lastly, existing scholarship and studies by specialized research centres are being used.

Interviews

To establish the presence of causal mechanisms and shed light on the process of norm adoption and implementation, this research made use of semi-structured interviews as

a source of primary data (Beach and Pedersen, 2013: 99, 132; Tansey, 2007). During the fieldwork in Georgia, from the 10th to 30th November 2014, 16 interviews were conducted in Tbilisi. In Latvia, from the 15th of March to the 3rd of April, 2015 19 interviews have been carried out in Riga.

Interviewees were selected upon their involvement in the process of drafting the laws, policies, and/or being in charge of designing the policies to implement the policy directives. Thus, for instance, to shed light on the adoption of the new Citizenship Law of 2013 in Latvia, both a member of the working committee on drafting the law, as well as the member of the Saeima (Latvia's Parliament) proposing the amendments to the law were interviewed. "Potential sources of error" (Beach and Pedersen, 2013: 167) in interviewing is addressed by triangulating the information, where possible, by making an extensive use of direct excerpts/speeches published in newspaper articles, press conferences, and conference notes to complement the information on the decision-making process. Where possible, parliament speeches and discussions are being analysed. However, due to linguistic threshold translations of the speeches are used from official and/or trusted sources (e.g. Integration Monitor of Latvian Centre for Human Rights).

Monitoring reports: international and national

While reference to a number international organizations reports (e.g. specialized agencies of the UN, OSCE, etc.) are made throughout the thesis, the primary focus is given to the Council of Europe reports, compiled by its specialized agencies, due to the key role they play in monitoring compliance with European Minority Rights regime (see Chapter I). Specifically, these agencies are the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) and

European Commission against Racism and Intolerance (ECRI). These bodies are composed of “independent and impartial members on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance” (CRI(2016)2). ACFC monitoring committee, for instance, consists of 18 independent experts (Council of Europe, 2016). These bodies are thus independent of states, the performance of which they assess, as well as the CoE itself.

Since 1999, Georgia has been subject to two monitoring cycles by the Advisory Committee and has submitted two state reports on the progress made regarding implementation of the FCNM – the first one on the 16th of July, 2007 (ACFC/SR(2007)001), and the second – on the 30th of May, 2012 (ACFC/SR/II(2012)001). The Advisory Committee, on the other hand, has presented its Opinion (ACFC/OP/I(2009)001) on the State Report once – on the 19th of March, 2009. Since 2001, ECRI adopted four reports on Georgia. The first one on the 22 June 2001 (CRI(2002)2); the second on the 30 June 2006 (CRI(2007)2); the third on the 28 April 2010 (CRI(2010)17); and the fourth on the 20 June 2013 (CRI(2013)41) consequently.

Ever since ratifying FCNM in June 2005, Latvia has been subject to two monitoring cycles by the Advisory Committee and submitted two state reports on implementation of the FCNM on October 1, 2006 (ACFC/SR(2006)001) and September 3, 2012 (ACFC/SR/II(2012)002). Consequently, the Advisory Committee has presented its Opinion on the State Reports on October 9, 2008 (ACFC/OP/I(2008)002) and 18 June 2013 (ACFC/OP/II(2013)001). ECRI, on the other hand, has presented four monitoring reports on Latvia, adopted on 19 June 1998 (CRI(99)8), 14 December 2001 (CRI(2002)21), 29 June 2007 (CRI(2008)2), and 9 December 2011 (CRI(2012)3).

Due to linguistic barriers and limitation in resources, this research has also made an extensive use of the monitoring reports of research centres conducted nationally both in Georgia and Latvia on the implementation of separate issue areas that are of direct relevance to this study. To avoid potential (political) bias on the part of government-funded research centres, the information provided by the given centres was juxtaposed against the data provided by the non-governmental research centres, where possible. Sources of data with regard to compliance with the religious rights, linguistic rights and anti-discrimination provisions in Georgia on the one hand, and linguistic rights and the rights of non-citizens in Latvia on the other, will be outlined here. In Georgia, among such reports are *Study of Religious Discrimination and Constitutional Secularism in Georgia*, published by (non-governmental) Tolerance and Diversity Institute (2014); annual *Assessment document on the implementation of the national concept for tolerance and civic integration and action plan*, published by the Office of the State Minister of Georgia for Reconciliation and Civic Equality in partnership with a group of invited (five) experts; annual reports on *the Situation of Human Rights and Freedoms in Georgia*, published by the Office of the Public Defender of Georgia.

In the case of Latvia, the data provided by the (state) Office of Citizenship and Migration Affairs and non-governmental Latvian Human Rights Committee (Latvijas Cilvēktiesību komiteja (FiDH) on the issue of citizenship was used. Among the reports by the Latvian Human Rights Committee was *Legal and social situation of the Russian-speaking minority in Latvia, Список различий в правах граждан и неграждан Латвии [The list of differences in the rights of citizens and non-citizens of Latvia]*, published by Buzaev (2013). The data on compliance with linguistic rights was accessed from the report on *Language situation in Latvia: 2004-2010* published

by Latviesu Valodas Agentura [Latvian Language Agency] in 2012 and the Central Statistical Bureau of Latvia.

5 Case Selection

Designing the study on the question of why *given differences across cases, we observe similar outcomes*, allows us to address the research puzzle, while at the same time, rendering the main explanatory variable identified by the Europeanization literature pre-accession – *(EU) membership conditionality* – theoretically irrelevant. Using the *Most Dissimilar Systems Design* (MDS) requires structuring comparisons such that differences are so prevalent as to become explanatorily irrelevant – and common factors explanatory (Seawright and Gerring, 2008). The cases must show differences on most of the variables, to single out similarities (similar IVs) that account for similar outcomes (DV) (Hirschl, 2005: 140). Hence, in the sections below, factors that are relevant to the analysis of the (a) FCNM adoption post-accession and (b) cross issue within country variation post-accession are presented. In particular, it is suggested that given the systemic and within systemic differences in availability of external incentives post-accession, different IO memberships, the size of minorities, mode of their protection and differences in representation in national parliaments – these factors cannot be used to explain similar outcome (of FCNM) adoption. Instead, the analysis will focus on the commonly shared Soviet institutional legacies, and European identity can serve as an explanation for ratification of the FCNM post-accession. On the other hand, the discussion also presents a general overview of the prospective compliance pattern of implementation of FCNM provisions within countries post-accession.

5.1 Systemic differences: International obligations and incentives

Availability of external incentives

The first and the foremost systemic difference between Latvia and Georgia is the existence of alternative incentives in the post-accession period. In the post-accession period, external material incentives are no longer available for Latvia, unlike Georgia. However, rather than being targeted to foster improvement of minority rights, those incentives are directed at improving human rights in general. At the same time, unlike Latvia, Georgia has never been offered the main 'carrot' of EU membership perspective. Its relations with the EU have been developed first, within the framework of *Technical Assistance to the Commonwealth of Independent States (TACIS)*, *European Neighbourhood Policy (ENP)* and eventually *Eastern Partnership (EaP)*. While EU's policy towards its post-Soviet Eastern neighbours has been in flux, there was a change in the instruments employed by the EU to foster changes in the region, by enhancing its package of incentives. In the paragraphs below, I will outline the extent to what they offer incentives in return for demands in minority rights.

In the framework of Technical Assistance to Georgia, the European Commission provided support for institutional, legal and administrative reform, support in addressing the social consequences of transition with an emphasis on the healthcare sector, development of infrastructure networks. From 1992-2006, €131m were allocated for hundreds of projects implemented in Georgia (Delegation of the European Union to Georgia [EEAS], 2015). There was no specific focus on minorities. However, under the *European Initiative for Democracy and Human Rights (EIDHR) programme*, from 1992-2006, Georgia received approximately €8m for projects aiming at strengthening the civil society in Georgia, by advocating for the

protection of human rights, for the fight against torture and for combating discrimination against ethnic minorities (European Commission 2007-2013). The TACIS remained the main instrument through which the EU supported the implementation of the bilateral Partnership and Cooperation Agreement (PCA) – which created a framework for political dialogue between the EC and Georgia until the *European Neighbourhood Policy* (ENP) was launched.

Introduced in 2004, the aim of the new Neighbourhood Policy was declared as “provid[ing] a framework for the development of a new relationship which *would not*, in the medium-term, include a *perspective of membership* or a role in the Union’s institutions [emphasis added]” (COM(2003)104, p 5). In 2007, with the launch of the New Financial Perspectives, the European Neighbourhood and Partnership Instrument (ENPI), the EU focused on enhancing cooperation and economic integration between the EU and the partner countries, as well as the promotion of good governance and equitable social and economic development. General provisions establishing ENPI measures (Regulation EC(2006)638/) focused on legislative and regulatory support to encourage participation in the internal market; the strengthening of national institutions; the rule of law and good governance; and the promotion of sustainable development and poverty reduction. Thus, the ENPI does not cover *minority rights* as a separate issue area. Rather, it includes measures of social inclusion, gender equality, non-discrimination, promotion of human rights and fundamental freedoms and the development of civil society (Ferrari, 2014).

In 2008, to foster “stability, better governance and economic development at its Eastern borders” (COM(2008) 823 final, p 2), the European Commission suggested taking a “proactive and unequivocal” policy - a “more ambitious partnership” – a new Eastern dimension within the European Neighbourhood Policy (ENP). In 2009, the

EU offered a *deeper association* and economic integration to its ‘post-Soviet’ “partners” – including Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine – within its new Eastern Partnership Programme (EaP). Although the EaP rules out EU membership perspective, it employs the principles of *differentiation* and *conditionality*, where the extent and depth of association between them and the EU were to be defined in terms of the progress that these countries make in terms of reforms. The list of priorities within EaP includes economic integration with the EU, easier visa regime, and the creation of free trade zones. Hence, while offering a ‘more ambitious partnership,’ the EU fell short of offering the ‘most effective carrot’ (Schimmelfennig and Sedelmeier, 2005) – membership - to induce reforms in its Eastern Neighbourhood.

Under EaP, the EU has increased its leverage by enhancing its package of incentives (Delcour, 2013: 352). In 2011, EU reviewed its policy as a Response to a Changing Neighbourhood (COM(2011)303). The reviewed policy introduced the “*more for more*” approach to enhance cooperation in all sectors relevant to the Internal Market, ranging from social policy and public health to consumer protection, statistics, company law, research and technological development, maritime policy, tourism, space and many others (COM(2011)303, p 10). In December 2012 the EU made the signing of the Association Agreement (within the Eastern Partnership approach) dependent on three issues, including the compliance of parliamentary elections with international standards, progress in the rule of law and "implementing the reforms defined in the jointly agreed Association Agenda." The Association Agenda covers minority issues under the "political dialogue and reform" heading (EUEA, 2014). It contains a standardized reference to “strengthen respect for democratic principles, the rule of law and good governance, human rights and fundamental freedoms,

including the rights of persons belonging to minorities... through approximating with the EU *acquis communautaire*." The Agenda makes a reference to the report prepared by Thomas Hammarberg (EUEA, 2013), the EU's Special Adviser on Constitutional and Legal Reform and Human Rights in Georgia, and stresses the need to

- (a) Adopt a comprehensive National Human Rights Strategy and Action Plan;
- (b) a comprehensive anti-discrimination law,
- (c) take steps towards signature, ratification and transposition into national legislation of relevant UN and Council of Europe instruments in the fight against discrimination, including taking into account the UN Convention on Statelessness and the standing recommendations of the Council of Europe on the European Charter for Regional or Minority Languages;
- (d) respond appropriately to the conclusions and recommendations of relevant Council of Europe bodies on compliance by Georgia with the Framework Convention for the protection of national minorities (Association Agenda, p 5).

The reference to both human and minority rights is further made in the three sets of documents outlining the way forward to the association with the EU: *the Actions Plans, Visa Liberalization Action Plans (VLAP)* and *Country Progress Reports*.¹²

A study on measuring the impact of Eastern Partnership on minorities, conducted by *Minority Rights Group* has however shown (Ferrari, 2014), political commitments concerning minority rights are by no means intrinsic to the association package due to a number of reasons:

¹² The Action Plans refer to actions on shared values through political dialogue and reform as well as to actions with regard to economic reform, trade and alignment of legislation to bring about economic integration. All Action Plans contain a standardized reference to ensure or to strengthen the "respect for the rights of persons belonging to national minorities." The VLAPs set out two consecutive levels of benchmarks - the policy framework and implementation measures. Citizens' rights including the protection of minorities are a specific component of the fourth block of all VLAPs Ferrari H. (2014) Partnership for all? Measuring the impact of Eastern Partnership on minorities. London: Minority Rights Group International. In turn, Country Progress reports provide an overview of the reforms done so far.

insufficient collection of data and information on minority concerns in relevant sectors; conflicting assessments by the EU and government reports; unsystematic reference of minority concerns, particularly in progress reports; and prioritization, again especially in VLAP reports, on anti-discrimination issues. Most importantly, the EU has no clear indicators, targets and benchmarks to assess progress (Ferrari, 2014).

The process on Visa Liberalization applies a more systematic approach but with a focus on anti-discrimination, with minority rights not flagged up as a separate issue. It is also not clear whether funds allocated under ENPI¹³ are used for minority-related reforms or not (Ferrari, 2014).

Thus, it can be concluded, EU's monitoring of minority rights in Georgia has been weak and the attention paid to the improvement of rights of minorities limited (Ferrari, 2014). Under the EaP, the focus has been on anti-discrimination measures only. However, the EaP carries an innovation in the way where it makes a deeper association with the EU conditional on the reforms in the 4th cluster (on human rights in general). Within the scope of the EaP, Georgia was offered a 'deeper association' with the EU, increasing (though not significantly) the size and credibility of its incentives. The EU-membership option is not at the table for Georgia to date. Hence, the influence of the EU on minority rights policies in Georgia is indirect.

IO membership

Secondly, and related to the first point, while Latvia is a member of the EU and the CoE, Georgia is a member of the CoE only. Hence, they vary in degree of their association to the EU. Membership in the EU provides additional avenues for Latvia's citizens to exert bottom-up influences via EU's supranational institutions. Once

¹³ The European Neighbourhood Instrument (ENPI) continues to be the main financial instrument for the EaP countries, with a budget of €2.8 billion allocated for the Eastern countries between 2009 and 2013.

becoming a member state, it enjoys EU's "four freedoms" that guarantees the free movement of goods, capital, services and peoples. Its citizens also take part in EU's supranational institutions, such as the European Parliament. Ability to participate in European institutions opens up additional avenues for bottom-up influences to bear fruit in Latvia. Thus, it provides Latvia's citizens additional avenues to exert pressure on their government through EU's supranational institutions. Additionally, EU membership has also opened new opportunities for socialization on the institutional and grass-roots level. This provides different avenues for Latvia's population and the government (at various levels) to interact with other EU states (and populations), and hence not only to socialize into EU norms but also to learn from existing (differing) practices among the EU member states.

5.2 Within-systemic differences: size of minorities, mode of protection, representation

Size of minorities

According to the results of the last *All-union Population and Housing Census 1989* (Bolshaia Sovetskaia Entsiklopedia, 1990), demographic indicators in the Latvian SSR were as follows: 52% of the total population were ethnic Latvians. This represented 1 387 757 of the total population. Among the rest 48%, ethnic Russians represented the biggest minority group (34%), followed by the Belarusians (4.5%), Ukrainians (3.5%), Poles (2.3%), Lithuanians (1.3%), and other ethnicities (2.4%) (State Statistics Committee, 1990). In 2000, in the first post-independence census conducted by the government of Latvia, ethnic Latvians made up 57.7% of the total population, totaling to 1 370 703 number of people. The percentage of Latvia's biggest ethnic minorities - Russians decreased to 29.6%. However, ethnic minorities

still represented a significant portion of the population – 42.3% (MFA/RL, 2010).

In the Georgian SSR, according to the All-union Census 1989, ethnic Georgians represented 70.7% of the total population, constituting 3 787 393 people in total. While the ratio of ethnic minorities was 29.3%, the two biggest ethnic minority groups were Armenians and Russians (8.1% & 6.3% respectively), followed by ethnic Azerbaijanis – 5.7%, Ossetians (3%), Greeks (1.9%), Abkhazians (1.8%), and other smaller ethnic groups (2.5%). In the first post-independence census in Georgia in 2002, ethnic Georgians represented 83.8% (3 661 173) of the total population, followed by ethnic Azerbaijanis (6.5%), Armenians (5.7%), Russians (1.5%), and other ethnicities (2.5%).

In comparative terms, Latvia's minorities (representing 42.3% of the total population) could be much more influential in electoral processes than Georgia's (16.2%). It also provides a fertile ground for 'bottom-up' processes to be more influential in Latvia, than in Georgia. At the same time, given the numbers, accommodation of needs of minority groups could be expected to be a much bigger issue in Latvia. Thus, the domestic adjustment costs are higher. It is also widely believed that the sheer number of Latvia's minority population led its post-independence government to take a different approach (to that of other post-Soviet republics) – modes of protection – to accommodating differences.

Mode of protection

After proclaiming its independence in 1990, the Latvian government chose a *restorationist approach*, reinstalling Constitution of 1922 and the Citizenship Law of 1919. Thus, legal continuity of citizenship of the pre-occupation Republic was confirmed (PACE (1999)8426). This meant that all the people who immigrated to

Latvia, since the establishment of the Communist regime and their descendants were treated as 'aliens.' The government created several categories of citizenship, introducing a concept of 'non-citizens' – those had different rights to that of citizens and minority nationals. Citizens and 'non-citizens' are not equal in legal status and rights that they enjoy.

Georgia, on the other hand, adopted a "zero-approach," granting all people who were citizens of Georgia SSR citizenship. According to the constitution, all citizens were to be treated equally. At the same time, due to administrative-territorial structure, at least constitutionally, some minorities were given greater cultural rights than others¹⁴.

Differences in approaches reflected in the scale of attention from international organisations. The bigger issue of 'non-citizens' resulted in pressure from the OSCE, the CoE, and the EU, as a result of which Latvia's government adopted more inclusive policies, deemed 'appropriate' by the IOs. In Latvia, pre-accession pressure and EU membership incentives outweighed domestic adjustment costs. It also means that the most challenging (costly) issues were addressed pre-accession. Thus, whereas in Latvia introduced changes were a result of direct pressure from the EU/CoE; in Georgia, one could speak of a more 'voluntary change' that was not tied up to material incentives.

Representation

Unlike in Georgia, there have always been parties in Latvia's parliament that sought to represent the rights of national minorities. That trend did not change as Latvia joined the EU (see Chapter V). Even though these parties have never been part of governing coalitions, their representation in the parliament has been significant. Thus,

¹⁴ In particular, Abkhazians in Abkhazia. This point will further be elaborated on in Chapter III. 100

for instance, *pro-minority* Harmony Centre could enlist 24-28 seats throughout the period from 2010 – 2014, out of 100-seats Latvian parliament (Saeima, 2010-2014).

In Georgia, to date, no party has been created to explicitly defend the rights of ethnic minorities and/or call for regional cultural and/or territorial autonomy for Georgia's ethnic minority population. Instead, this commission has been undertaken by local NGOs. In the last 2016 elections, for instance, when the number of ethnic minorities represented in the parliament saw a record high, it amounted only to 11 of Georgia's 150 seat parliament (CRRC, 2016). The Article 6 of the *Organic Law of Georgia on Political Unions of Citizens* (Parliament of Georgia, 1997) (*as of 2012*) prohibits the establishment of political parties according to a regional or territorial principle. This Law effectively bans the formation of ethnic minority political parties, limiting their representation in the government (George, 2010), since the majority of its ethnic minority population lives in close-knit communities.

Thus, unlike in Georgia, it might be expected that minority issues/demands streamlined to political circles in more efficient and effective way in Latvia. We could also expect bottom-up influences to be more efficient in the case of Latvia.

5.3 Cross-country similarities

Soviet past, European identity

Both countries share institutional legacies of Soviet territorial-political and personal-ethnocultural models of nationhood. During the Soviet period, territorial units of the Union and ethnic groups that populated them were organized in a hierarchical way¹⁵.

¹⁵ Soviet federalism was based on a four-tier hierarchical organization of the territory, designed to achieve interdependence and mutual subordination of the administrative units and the variou101

Such a hierarchical organization of ethnic groups created two categories of people – *autochthonous* and *nonindigenous*. On the other hand, the introduction of the concept of a so-called ‘titular nation’ (Tishkov, 1999)¹⁶ In the aftermath of Soviet Union's disintegration reinforced the idea that it was not the Republic that constituted its nations, but the pre-existing nation that was given the republic “of and for” itself (Brubaker, 1994: 65). This led to an implicit understanding that some ethnicities are more important than others. In effect, it also affected the way ethnic minorities identified themselves. The effects of this could be traced to date. Implicit understanding that the state belongs to the country's name-bearing nation (e.g. ethnic Georgians in Georgia and ethnic Latvians in Latvia) finds its resonance in nationhood policies in the post-independent Georgia and Latvia. The latest introduction of a Preamble to the Constitution of Latvia is a good example in case. Having an "ethnic" undertone, the Preamble defines the identity of Latvia as the one shaped by [ethnic] "Latvian and Liv traditions...the Latvian language, universal human and Christian values”.¹⁷ In effect, such an approach restricts the avenues for ethnic minorities to integrate into majority group’s societal culture, because rather than being inclusive, such definitions are exclusive by nature.

nationalities Fautré W. (2009) Georgia-South Ossetia-Russia: The historical context of the August 2008 war. Human Rights Without Frontiers International. Union-wide, this territorial hierarchy consisted of 15 Union Republics being on the top of the hierarchy followed by 20 Autonomous Republics, 8 Autonomous *Oblasts* (provinces) and 10 Autonomous *Okrugs* (districts) on the hierarchical ladder respectively.

¹⁶ That was, however, not only limited to the theoretical assumptions. Research and policy were also based on the assumptions that people have "deep-rooted...historical bonds to their eponym countries" to which, correspondingly, they must return. See Tishkov V. (1999) Ethnic Conflicts in the Former USSR: The Use and Misuse of Typologies and Data. *Journal of Peace Research* 36: 571-591. The ‘repatriation’ of Volga Germans to Germany, Greeks to Greece, Russians to Russia, and other nationalities to their ‘homelands’ could be explained by the existence of a ‘special bond’ between the nations and their receiving states.

¹⁷ This point will be elaborated in more detail in Section 4.4 of Chapter V.

At the same time, both countries celebrated establishing institutional ties with European IOs, as a “*return to Europe*”¹⁸. While defining their cultures as exclusively *European* (Preamble to the Constitution of Latvia), Soviet past came to symbolize everything that the post-independence republics were not about. As will be elaborated on in Chapters III and IV, both in Latvia and Georgia, Europe was associated with progress, development, and civilization. The desire to be “return” could potentially foster the willingness to be a good, norm abiding European. Hence, it can increase the prospects for socialization and social pressure to be successful.

[Lack of] salience of minority rights

The issue of minority rights has been tamed by nationalist rhetoric during the first early years of independence in both countries. In general, the idea of widening the scope of minority rights is not normatively salient in neither of the countries. However, the reasons for that diverge. Unlike Georgia, Latvia's territorial integrity has never been compromised. One of the biggest sensitivities revolves around the issue of language. Latvians feel their language is endangered by the use of Russian in Latvia. Hence, much friction is generated while trying to restrict the scope of the use of Russian language in public, schools, etc.

In Georgia, the history of inter-ethnic strife fed into fears that giving minorities more rights is a way of initiating separatist movements. On the other hand, the issue of linguistic rights has never been as acute in Georgia as it was in Latvia. Unlike in Latvia, for a great majority of ethnic Georgians, the Georgian language remained the first language throughout Soviet times (see Chapters 3 and 4). Thus, while the rationale behind hesitation to widen the scope of minority rights is based on the fears

¹⁸ For instance, accession of Georgia into the CoE in 1999 was described by Zhvania as Georgia's “return to its European tradition.”

of potential separatist movements, the aspect of 'threat to local culture/language' is not present in Georgia. At the same time, the difference in the percentage of minority nationals in Georgia in relation to the general population (unlike in Latvia) does not threaten the position of the Georgian language at large.

Russia: as a 'kin-state' and/or a regional power

Russia played to sensitivities in both countries, in different ways. Russia plays a role of a keen state and an external actor pressing for improvement in the state of (Russian speaking) minorities in Latvia (Pridham, 2008; Brosig, 2010). It actively uses the international forum to accuse Latvia of inadequate protection of minority rights (especially of the rights of non-citizens). Russia's active engagement in propagating for the rights of Russian-speaking minorities make the state particularly reluctant to deal with the issue of non-citizens (Malloy et al., 2013: 157-158), as they believe that would serve the political purposes of Russia. In Georgia, on the other hand, the link between minorities and Russia is less pronounced, with the exception of South Ossetian and Abkhazian cases that enjoy *de facto* independence. Russia is considered more as an external power that undermined the territorial integrity of Georgia. Even though Russia remains an important regional power, in general terms, it could be said that compliance with minority rights in Latvia and Georgia post-accession is observed *despite* the fears/concerns that Russia's involvement in the process generates in political circles within both countries.

Against this background, it could be expected that pro-European orientation and/or identification within Latvia and Georgia served as a precedent for ratification of the FCNM post-accession in both countries.

CHAPTER III. Compliance with the FCNM in Georgia: *International obligations, Preferences and Incentives*

Georgia is a country of contrasts and paradoxes.¹⁹ Nevertheless, continuity has been endemic to Georgia's political culture.²⁰ It is one among the fifteen Union Republics that declared its independence from the Soviet Union on 9 April 1991. Political life of the country has been unfolding at an increasing pace with periods of internal political instability, marked by civil unrest, two inter-ethnic conflicts, and two unconstitutional transfers of power: first, in 1991-1992 as a result of a *coup* against Zviad Gamsakhurdia and second, in 2003, as a result of removal of Eduard Shevardnadze – widely known as the 'Revolution of Roses.' The new young and Western-oriented elite has embarked on a series of radical reforms to excoriate petty corruption and improve the functioning of state institutions, which eventually made Georgia one of the most successful cases of democratic transitions in the post-Soviet space (Freedom House, 2014). Parallel to this, the state has cracked down on the opposition, limited media freedom, and received criticism for representing "benign police state" (de Waal, 2011). This process has ended in what has been the country's first constitutional transition of power in 2012. As a result of these processes, Georgia has considerably improved its 'failed state' credentials (The Fund for Peace, 2015), while losing *de facto* control over its two regions - South Ossetia and Abkhazia. To date, Georgia's territorial integrity and socio-economic hurdles remain the top two concerns of its population (International Republican Institute, 2003 – 2015).

¹⁹ It has been reflected in attempts to combine seemingly incompatible processes, such as democratization at the expense of freedoms (e.g. freedom of the press) and/or respect for human rights. Parallel to this, social space has been loaded with contradictory norms and values, where ends seemed to justify the means. Thus, the general population looked up to a strong and (sometimes) authoritative leader to achieve democratisation.

²⁰ At least in discourse, Georgia remained committed to democratisation and pro-European/Western orientation.

Paradoxically, despite the absence of clear material incentives, the government ratified the *Framework Convention for the Protection of National Minorities* (FCNM) in line with commitments it undertook upon the accession into the Council of Europe in 1999. However, while embarking on such a change, Georgia is yet to ratify the *European Charter for Regional and Minority Languages* (ECRML).

This chapter addresses the question of *why in the absence of clear prospects for joining the EU on the one hand, and having obtained CoE membership on the other, does the government of Georgia keep complying with IO recommendations on minority rights?* It presents the analysis of formal compliance with recommendations regarding the general provisions of the FCNM post-accession against country-level explanatory factors: ruling government's orientation/identification, its stance towards minorities, and alternative incentives mechanisms. To do so; first, the chapter sketches out the background on minority rights in Georgia. In this regard, Section 1 elaborates on international obligations undertaken upon Georgia's accession into the CoE, the challenges of implementation of these recommendations domestically and changes adopted post-accession. Section 2 presents the analysis of 'top-down' processes. In this regard, it focuses on ruling elite's stance towards minorities and its foreign policy orientation/identification. Afterwards, Section 3 elaborates on 'bottom-up' processes taking place in Georgia. Section 4 presents a comparative analysis of the 'top-down' and 'bottom-up' processes. It shows that pro-European identification/orientation and the pro-integrationist stance that Georgia's ruling elite took towards minorities went in parallel with the adoption of international recommendations. Section 4 thus suggests that the likelihood of behavioral compliance with post-accession recommendations is higher beginning from 2003 when Saakashvili came to power.

The analysis of the role of alternative incentive mechanisms in fostering compliance with IO recommendations has shown, presence of thereof (since 2008) in the form of signing of the Deep and Comprehensive Free Trade Agreement (DCFTA) between the EU and Georgia, did not entice the Saakashvili's government into the adoption of related reforms (specifically, comprehensive anti-discrimination legislation). It was not until Margvelashvili came to power when the 'carrot' was used. The chapter concludes that rather than altering domestic cost-benefit calculations, (and hence constituting a powerful tool for change in itself), the presence of alternative incentives mechanisms in the form of signing of DCFTA was effective as long as it went in line with the government's economic policies.

The last Section 5 presents the analysis why having had adopted the FCNM, Georgia failed to ratify the ECRML. It is shown that Saakashvili's government adopted the FCNM to boost its international reputation. However, rather than trying to boost its reputation at all costs, adoption of the FCNM was possible, as it did not pose a 'threat' to the ruling government's nation-building policies, which were based on the idea of integrating minorities into Georgian societal culture – the reason why ECRML was not adopted.

1 Minority rights in Georgia: International obligations, nature of challenges, post-accession changes

1.1 International obligations

Throughout the history, the region of present-day Georgia has been subject to different influences – Roman, Persian, Arab, Mongol and Ottoman Turkish (Suny, 1994; Lang, 1962). Georgia was absorbed into the Russian Empire in the 19th century. Independent for three years (1918-1921), following the Russian communist

revolution in 1917, it was forcibly incorporated into the USSR in 1921. Georgia regained its independence when the Soviet Union dissolved in 1991. After it joined the Commonwealth of Independent States (CIS) in 1993, Georgia became its most pro-western member, declaring NATO and EU memberships as its top foreign policy priorities (Cornell, 2007: 1). In 1999, Georgia became the first country in the South Caucasus to be admitted to the Council of Europe (CoE) – an event that was described by domestic political elites as Georgia’s “*return to its European tradition [emphasis added]*” (Zhvania, 1999). With this, Georgia was subject to Council of Europe’s soft conditionality, and hence, its accession was made conditional upon promises of future reform.

Upon accession to the Council of Europe, Georgia pledged (PACE (1998)8275) 1) with regard to conventions to sign and ratify both the *Framework Convention for the Protection of National Minorities (FCNM)* and the *European Charter for Regional and Minority Languages* within a year of its accession; 2) with regard to domestic legislation “to adopt, within two years after its accession, a *law on minorities based on the principles of Assembly Recommendation 1201 (1993)*”. Since then, Georgia has been subject to CoE’s monitoring on the implementation of its commitments.

1.2 Nature of challenges: secessionist movements, nation-building policies, socio-economic hardships

In 1991, Georgia’s administrative territorial division echoed Soviet federalist structure, based on a four-tier²¹ Hierarchical organization of the territory (Fautré, 2009). It encompassed two autonomous *Republics* – Adjara and Abkhazia, and an autonomous *Oblast* – South Ossetia. This diverse administrative territorial division

²¹ A four-tier hierarchical organization of the territory was designed to achieve interdependence and mutual subordination of the organizational units and various nationalities. At the top, there were 15 Union-wide Republics, followed by 20 Autonomous Republics, 8 Autonomous *Oblasts* (provinces) and 10 Autonomous *Okrugs* (districts).

was reflective of Georgia's multi-ethnic composition. According to the last All-union Census (USSR, 1989), ethnic Georgians represented 70.7% of the total population, constituting 3 787 393 people in total. While the percentage of ethnic minorities was 29.3%, the two biggest ethnic minority groups were Armenians and Russians (8.1% & 6.3% respectively), followed by ethnic Azerbaijanis – 5.7%, Ossetians (3%), Greeks (1.9%), Abkhazians (1.8%), and other smaller ethnic groups (2.5%).

The civic and interethnic strife that led to two secessionist movements in Abkhazia and South Ossetia in the early 1990s negatively affected the state of minorities in Georgia. On the one hand, political and economic hardships led to mass emigration of ethnic minorities from Georgia (Sordia, 2009: 6, 8). In the first post-independence census in Georgia in 2002, ethnic Georgians represented 83.8% (3 661 173) of the total population, followed by ethnic Azerbaijanis (6.5%), Armenians (5.7%), Russians (1.5%), and other ethnicities (2.5%). This left Georgians, Azerbaijanis and Armenians as the three largest ethnic groups in 'Georgia proper' – territory that is under the effective control of Georgian government. On the other hand, the history of two secessionist movements created a deep skepticism among Georgians towards any calls for greater cultural rights of minorities – specifically the ones who are compactly settled within Georgia (Nodia 2010), seeing it as a precedent towards prospective calls for independence.

Ethnicity is not the only marker of identity in Georgia. Additionally, differences across people cut across linguistic and religious lines. Very often ethnic belonging goes in parallel with people's linguistic and religious backgrounds. While the vast majority of ethnic Georgians nominally associate themselves with the Georgian Orthodox Church (GOC) and speak Kartvelian Georgian language, Azerbaijanis are mainly Muslims and speak Turkic Azeri language. Most Armenians belong to

Armenian Apostolic Church (AAC) and speak Armenian, which belongs to Indo-European language family (see Chapter IV). The majority of ethnic Azerbaijanis and Armenians live in close-knit communities and are territorially concentrated in the regions of Kvemo Kartli and Samtskhe-Javakheti respectively (see Map in Appendix B).

The populist, nationalistic policies of Zviad Gamsakhurdia, Georgia's first leader, from 1990-1992, alienated minorities from domestic political and cultural space. The legacies of Soviet nationalities policies that left minorities in a status of 'non-indigenous' peoples, whose home was elsewhere (e.g. Armenia, Azerbaijan, etc.) served as a fertile ground for Gamsakhurdia's radical ethno-nationalist discourse that openly 'scapegoated' minorities as potentially disloyal (Jones, 2006). The territorial concentration of minorities and their poor knowledge of Georgian language only added up to the complication. Alienation of ethnic-minority communities from the mainstream society left them totally dependent on their kin-states (MRGI, 2008: 2) – Armenia and Azerbaijan, and at times Russia – regarding education, employment and information space (TV, etc.). Furthermore, external conflicts (e.g. Ukraine crisis), reignites fears that ethnic minorities could be used by Russia to undermine territorial integrity and incite separatism in Georgia (Rimple and Mielnikiewicz, 2014).

To sum up, towards the end of the first decade of Georgia's independence the most urgent issues related to integration of minorities into Georgian societal culture were their socio-economic conditions, geographical isolation, poor knowledge of state language, and some (though rare) calls for independence that made Georgian government very suspicious of proposals that seek to reinforce identities of ethnic minorities.

1.3 Post-accession changes

Against this background, after long delays, the Georgian Parliament finally approved the FCNM in its final reading on 13 October 2005, formal ratification took place on 22 December, and the Convention entered into force on 1 April 2006. Among the most notable legislative and policy changes since then have been amendments to the *Civil Code* enabling minority religious organizations to register as “non-profit private-law corporations” in April 2004; adoption of the *National Concept for Tolerance and Civic Integration* on May 8, 2009; adoption of a new legislation that ensured the religious freedoms of ‘religious groups recognized as religious organizations in member States of the Council of Europe or having close historic ties with Georgia’ in July 2011; and last, adoption of the law on “Elimination of All Forms of Discrimination” on 17 April 2014.

2 ‘Top-down’ processes

2.1 Domestic political system: an overview

Georgia’s political system has undergone transformation since it regained its independence from the Soviet Union. Adopted on 24 August 1995, the Constitution of Georgia defines Georgia as a semi-presidential democratic republic, based on the multi-party system. Legislative power is vested in the government and the parliament. While the president is the head of state (Article 69.1 of the Constitution), the Prime Minister is the head of the government (Article 79.1 of the Constitution). Both the president and the government exercise executive power. Since the early days of independence, the country has seen a series of eight parliamentary (1990, 1992²², 1995, 1999, 2003, 2004, 2008, 2012) and seven presidential elections (in 1991, 1995,

²² There is no agreement as to whether the elections of 1992 could be called as such since no other candidate competed for the position of the Chairman of the Parliament – Head of State. 112

2000, 2004, 2008, 2013). The government has changed twice: first, in 1991-1995, and second, in 2003, after what has been widely referred to as the 'Rose Revolution.'

Before the 'Rose Revolution,' the political system of Georgia was based on an "uncertain balance" (Chiaberashvili and Tevzadze, 2005) between the parliament, the government and regional and local managers. The then-President Shevardnadze served as its adjuster. In the aftermath of Constitutional amendments of 2004 and 2005, powers exercised by the president have significantly increased, making President the most powerful political figure in the country. Constitutional amendments N3272 and N2494 adopted in February 2004 and in December 2005 respectively, authorised the President, among other things, to (a) appoint the Prime Minister, give the Prime Minister consent to appoint a member of the Government – a Minister; and (b) to dissolve the Government, dismiss the Ministers of Internal Affairs and Defence of Georgia on his/her own initiative or in other cases envisaged by the Constitution (Const. of Georgia. amend. 2006).

Party system: loose multiparty system

Despite a series of eight parliamentary elections (see Table 3.2), Georgia's political party system is widely considered not to be well-developed (Nodia and Scholtbach, 2006; Mitchell, 2009a). The first electoral handover of power from the ruling party to the opposition was in 2012 when the Georgian Dream alliance enlisted 54.97% of overall voter support. Likewise, the first time when the president left his office as a result of the popular vote was in 2013, when Giorgi Margvelashvili beat the other two candidates.

Table 3.1 Representation of political parties in Georgian Parliament, 1990 - 2012

Year	Party name	Number of seats
1990	The Round Table bloc, 54	62
	Communist Party	
1992	Peace Bloc, 20.8	16

	Bloc October 11th – 10.7, National Democratic Party – 8.2	
1995	Citizens’ Union of Georgia	46
	National Democratic Party – 8, Revival Union – 6.8	
1999	Citizens’ Union of Georgia,	56
	Bloc Revival of Georgia – 25.2, Industry Will Save Georgia – 7.1	
2004	<i>United National Movement (UNM)</i> National Movement Democrats	135
	<i>Rightist Opposition</i> New Rights Industry Will Save Georgia	15
2008	<i>United National Movement (UNM)</i>	119
	<i>The Joint Opposition</i> National Council, New Rights Christian-Democrats Labour Party	31
2012	<i>Georgian Dream Alliance</i> Georgian Dream – Democratic Georgia Conservative Party of Georgia Industry Will Save Georgia Republican Party of Georgia Our Georgia – Free Democrats National Forum	85
	<i>United National Movement (UNM)</i>	65

The Georgian political party system can be described as what some scholars call a ‘loose multiparty system’ (Jackson, 1997: 323) or ‘dominant political party system’ (Nodia, 2006), where a single political party achieves outright victory in parliamentary elections and takes full control of government agencies. As is shown in Table 3.2, from 2003-2012, the United National Movement (UNM) party dominated the parliament. After the elections of 2004, only one opposition party entered the Parliament. This record had somewhat improved in 2008. However, UNM still had more than two-thirds of the parliamentary vote, which allowed it to pass legislative acts and unilaterally change the Georgian Constitution. The political landscape had changed after the 2012 elections when UNM lost to *Georgian Dream Alliance* (henceforth Georgian Dream). Georgian Dream included parties of different

orientation in its rank. This made the decision-making process less prompt and subject to negotiation among the parties of the coalition.

Party ideological orientation

The party system is characterized by (a) weak institutionalization – e.g. parties are undergoing significant changes in the period between elections; (b) a low degree of ideological polarization between the parties (represented in the government); (c) centre-right orientation (self-description); and (d) by their weak connection to social groups, where party support and its legitimacy is usually dependent on the trust towards the party's leader (Nodia, 2006; Wheatley, 2005). The lines between left- and right-wing parties are blurred, and usually, the winning party presents itself as the unifying force, trying to combine both leftist and centre-right policies. The blocs and alliances between the parties do not necessarily follow the logic of political principles. Likewise, it is not uncommon for Georgian parties to install policies that contradict their proclaimed ideological standing (e.g. right-wing political parties defending left-wing principles, such as improvement of social conditions of the poor). Likewise, even the leaders or members of the same party may exhibit significant ideological differences (Nodia, 2006). Those parties that have clear ideological stance are usually not represented in the Parliament (Chiaberashvili and Tevzadze, 2005: 201). Very often rather than representing the will (and interests) of people, politicians are seen as seeking to maximize their own gains and lobby for their business interest by competing for the party posts (Wheatley, 2005).

Party leader(s) play one of the key roles on the political landscape. The role of the *figure* of the party leader(s) is reinforced by a certain vagueness and inconsistency in the ideological positions of Georgian political parties. This is also reflected in the

voting pattern of Georgia's population. Rather than casting a ballot and joining political parties for specific ideological and political principles, people tend to base their choice on the trust they vest into party's leadership – specifically, its key figures (Nodia, 2006).

Given the inter- and intra-party dynamics of the political party system in Georgia, ruling party's ideological orientation (left/right/etc.) cannot be used as a benchmark to assess the party's (and its leadership's) stance towards minority rights issues. The next section thus will focus on the nation-building policies that each ruling party and its elites professed during their tenure.

2.2 Nation-building policies: attitudes towards minorities

Regarding minority policies, Georgia's post-Soviet political history could be divided into three periods. The first period, from 1989 to 1992, under the rule of Zviad Gamsakhurdia; the second, from 1992 to 2003, under President Eduard Shevardnadze; third – since the Rose Revolution of 2003. The following section provides an overview of the policies that ruling elites implemented towards ethnic minority population under each period. In particular, whether these policies were inclusive or exclusive. Afterwards, in the following section, ruling elite's foreign policy direction will be elaborated on. Doing so will help lay out across time expectations for compliance with IO recommendations, based on the attitudes of ruling elites towards minorities and EU/Western integration.

1990 – 1992: exclusive ethnonationalism

During the last decades of Soviet rule, the pro-independence agenda was dominated by an ethno-nationalist discourse that was heavily based on works of Georgian intellectual and public figure Ilia Chavchavadze. For Chavchavadze “*Mamuli, Ena,*

Sartsmunoeba" [*Fatherland, Language and Faith*] were the basis and constitutive parts of a "nation." The emphasis was put on historical continuity and a common language as indispensable parts for the very existence and survival of a nation. In his own words, a nation was "a community shaped by history with common will... [...] ..., the decline... [of which]...starts at the period when the nation forgets about his past" (in Abashidze, 2005). Hence, Georgian language, Georgian Orthodoxy, and Georgian 'Europeanness' became uniting factors in the society (Nodia and Scholtbach, 2006) and became the building blocks of Georgian national project. This created a very exclusivist understanding of the 'Georgian nation' as such and led to discriminatory practices against its minorities.

Appealing to rural voters, Gamsakhurdia capitalized on the legacies of Soviet territorial-political and personal-ethnocultural models of nationhood.²³ Dividing the population into 'titular nation' (Tishkov et al., 2005), autochthonous and the rest (nonindigenous) (Jones, 2006) led not only to secessionist movements in autonomous regions²⁴, but also to a mass exodus of minorities from Georgia. Gamsakhurdia nurtured the perception of minorities as "internal threat" and "guests" who had their own homelands somewhere else. One of his most famous slogans of the time was "Georgia for Georgians!" Government's stance towards ethnic minorities was straightforward: they could stay in the country as long as their behaviour did not go

²³ This is why, some argue, Gamsakhurdia never questioned Abkhaz territorial autonomy within Georgia's jurisdiction, unlike that of South Ossetian. Thus, in 1991 Gamsakhurdia negotiated a consociational agreement with the Abkhazians, which put Georgians living in Abkhazia in a politically disadvantageous position. The Abkhazians, who made up only 17% of the autonomous republic, received 28 seats in the 65-seat Abkhazian parliament; the Georgian community (46 %) received 26 seats; and the remaining population (37 %) – 11 seats. During his rule, only minorities living within autonomous republic were accepted on negotiating table. Consequently, he abolished South Ossetian autonomy. According to some scholars, Gamsakhurdia's differential treatment of the Abkhazians and South Ossetians was based on an official Soviet paradigm: the former were autochthonous, the latter, nonindigenous (Jones 2006: 258).

²⁴ For a full account of Georgian-Abkhazian and Georgian-South Ossetian conflicts see Coppieters B. (2002) In Defence of the Homeland: Intellectuals and the Georgian-Abkhazian Conflict. In: Huisseune M and Coppieters B (eds) *Secession, history and the social sciences*. Brussels University Press, 89-116. And Hewitt BG. (2013) *Discordant neighbours: a reassessment of the Georgian-Abkhazian and Georgian-South Ossetian conflicts*: Brill.

against fundamentals of the Georgian national project (see above). Any explicit expression for nationalist aspirations was not tolerated. Otherwise, they could legitimately be pressed to move to their respective “historical homelands,” where they could pursue their own nationalist agendas (Sordia, 2009).

To sum up, Gamsakhurdia’s period is marked by discriminatory nationalist propaganda on the one hand, and absence of appropriate protection mechanisms for national minorities on the other.

1992 – 1999: co-optation of minorities

Under Eduard Shevardnadze, radical nationalist rhetoric was abandoned in favour of a moderate approach to Georgia's minorities. The political, territorial, and economic disintegration of the country during the mid-1990s discredited Gamsakhurdia's aggressive ethnic nationalism. When Shevardnadze was brought to power in 1992, the country was divided between local warlords and criminal chiefs (Nodia, 2006). Shevardnadze has successfully co-opted different interest groups into the power elite (Nodia & Scholtbach, 2006), without resorting to extremist nationalist agenda. The language of militant nationalism was replaced by concepts of citizenship and minority rights (Jones, 2015: 224). Ethnic minorities were no longer referred to as “guests” (Nodia, 2005), while examples from history were used to show that different ethnicities within Georgia could live in peace (Jones, 2006: 262). These measures were successful in bringing an end to open ethnic confrontations. However, they did not result in the introduction of a more inclusive concept of Georgian nation (that is, citizenship). In the paragraphs below, legal, policy and institutional changes for the protection of minority rights introduced during Shevardnadze's period will be outlined. It will be shown that while radical ethno-nationalist rhetoric was abandoned,

the introduction of new policy and legal measures did not obviate ethnic nationalism altogether.

From 1992 – 1999, the government introduced legislative, institutional and policy changes, which demonstrated a more favourable approach towards minorities. On the legislative level, the Law on Citizenship (1993) granted unconditional citizenship to all Georgia's residents, whose equality in "social, economic, cultural and political life irrespective of their national, ethnic, religious or linguistic belonging" was enshrined in the Article 38 (1) of Constitution of Georgia (1995). The Article 38 (1) has further stipulated the right of citizens to freely develop their culture, use their mother tongue in private and in public, *without any discrimination* and interference [emphasis added]. In line with these constitutional provisions, the 1997 *Law on Education* commissioned the state to take all the necessary measures to enable citizens, whose mother tongue is not Georgian to receive primary or secondary education in their own language. Nondiscrimination provisions were further incorporated into the *Georgian Criminal Code* of 1999, reflective in the Articles 109 (murder motivated by racial, religious, national or ethnic intolerance), 117 (infliction of serious injuries motivated by racial, religious, national or ethnic intolerance); and 126 (torture motivated by racial, religious, national or ethnic intolerance). Additionally, the government has ratified UN Convention on the Elimination of all Forms of Racial Discrimination and Council of Europe convention for the protection of Human Rights and Fundamental Freedoms.

The government has also created institutions under different governmental offices that were mandated to promote, supervise, investigate and act upon human rights violations in general. These institutions covered certain aspects of minority rights protection as well. Thus, created in 1995, the Office of Public Human Rights

Defender of Georgia (henceforth, Ombudsman) was entitled to receive, investigate, and where appropriate act upon complaints of human rights violations. S/he was expected to engage in activities designed to promote human rights awareness raising and education; provide policy advice and assistance to the Government on human rights matters. *The Parliamentary Committee on Human Rights and Ethnic Relations*, another specialized institution, was also given powers to independently investigate alleged claims of human rights violations, including breaches of the rights of national minorities (Sordia, 2009: 6-7). Another institution on human rights issues was established under the National Security Council. Deputy Secretary of the National Security Council on Human Rights Issues had some executive and coordinating functions as well as control functions over law enforcement institutions. This agency has played a role in countering the manifestations of intolerance against religious minorities (CRI(2002)2). Lastly, in 1998, a new *Office of the Assistant to the President on Interethnic Relations* was established. The Office was commissioned with monitoring of the rights of persons belonging to national, ethnic, religious and linguistic groups, and drafting of new laws or other normative acts for the protection and promotion of these rights (CRI(2002)2). Despite these changes, the Constitution made the exercise of minority rights conditional on the principles of "sovereignty, state structure, territorial integrity and political independence of Georgia" (Article 38.2). Thus concerns over territorial integrity trumped considerations for minority rights *per se*. In addition to this, situational impediments – i.e. ineffectiveness of governmental institutions and economic hurdles at the time proved implementation of the policies difficult.

Despite introducing legal and institutional tools for the protection of human and minority rights, the government failed to elaborate a long-term strategy on minority

integration into the public and political life of the country (Sordia, 2009: 6-8; Jones, 2006). The official state curriculum stayed focused on national history that emphasized autochthonous roots of Georgian state, its glorious past, and its struggle for freedom and independence (Kitaevich, 2014). Consequently, neither constitutional provisions nor the introduction of the specialized bodies for the protection of minority rights resulted in adequate policy implementation (FIDH, 2005: 7). The CoE's *Committee on Legal Affairs and Human Rights* referred to “unwillingness” and “reluctance” (PACE (1999)8296, para 40) of the Georgian government to implement its legislation on protection of minority rights.

2003 – to date: ‘unification’

Mikheil Saakashvili made integration of ethnic minorities into “nation’s life” – Georgian societal culture, a priority for his government (National Security Council, 2012). In contrast to Shevardnadze’s policy of containing the damage of secessionist movements and preventing further disintegration, Saakashvili aimed to ‘reunify’ the country (Nodia, 2005), based on principles of “civic” nationalism (Gavashelishvili, 2012; National Security Council, 2012).

The Rose Revolution of 2003 marked a departure from the past practices that were based on an ethnic understanding of a nation. To serve the purpose, the government embarked on a series of legislative, institutional (see Table 3.3), and policy changes. Among the most prominent of them was the ratification of the *Framework Convention for the Protection of National Minorities* (FCNM) in 2005. However, despite making these necessary changes, the Georgian government is yet to ratify the ECRML.

Education became the central pillar of the new national design. First, the government

sought to unify the nation around the Georgian language – through teaching Georgian to ethnic minority groups. For this purpose, the Ministry of Education and Science established the Department for Programmes and Language Department to enhance the dissemination of the official language in the entire territory of Georgia, and specifically in minority-populated regions. The Department for Programmes also sought to improve the implementation of the state policy for the protection of national minority languages.

Secondly, *history* was revisited. The study by Kitaevich (2014) of Georgia's educational curriculum shows, the focus on Georgia's ancient statehood and autochthonous roots was abandoned in favour of the establishment of a multi-perspective approach toward history and Georgian statehood. The new perspective reflected multi-ethnic character of Georgian population. History schoolbooks were redesigned to integrate Georgian and world histories in one narrative, contextualizing Georgia's role in international historical perspective.

Table 3.2 Established institutional structures for the protection of minority rights, 2004 - 2008

Ministries and other bodies	Relevant structures within bodies	Established	Abolished
State Minister for Conflict Resolution Issues	No defined structure	17 February 2004	31 January 2008
State Minister for Reintegration Issues	Division on National Minority Integration Division on Civil Integration	31 January 2008 31 January 2008	
State Minister for National Accord Issues	Division of Inter-ethnic Relations	17 February 2004	27 December 2004
State Minister for Civil Integration Issues	Division of national minority integration	27 December 2004	31 January 2008
Administration of President	Advisor of the President Council of Tolerance in Civil Integration Department of Inter-ethnic Relations	January 2006 August 2005 February 2005	November 2006
Public Defender	Council of National Minorities	December 2005	

Source: Sordia (2009)

While Saakashvili's rule represents a clear break from previous practices, certain continuities could be observed. First, official discourse stayed focused on past accommodating culture of Georgian nation that was based on the deep-seated value of tolerance (Kitaevich, 2014). Secondly, the underlying rationale for 'unification' of the nation on civic principles was to address established security agenda. The question of integration of minorities into "nation's life" and the protection of their rights was also discussed in the framework of *National Security Concept* of 2012. It was the first time the nexus between minorities and security was explicitly stated in the NSC. Integration of minorities and protection of their rights was described as a "key elements in the pursuit of a democratic, rule-of-law governed society." Third, and importantly, while putting an emphasis on unity and inclusion, Saakashvili did not abandon the rhetoric of ethnic nationalism either (Vachridze, 2012). This gave Saakashvili some leeway to appeal to different circles of society.

2.3 European/Western orientation/identification

In Georgia, domestic and foreign policy making have, for the most part, gone hand in hand. While domestic political and socio-economic considerations shaped and defined contours of its foreign policy orientation, 'external events' led to a reconsideration of thereof.

Throughout the history, the identity of Georgian nation has been developed as the one encroached by enemy powers, striving to preserve its culture, language and faith (Orthodox Christianity) (Batiashvili, 2012). Georgian view of Europe was loaded with the historical-ideational narrative of seeing Europe as "potential rescuer" from the Georgian "other." In turn, Georgian "others" have been first, Muslim neighbours (this reinforced understanding in Georgia that it belonged to 'Christian Europe'), and

eventually, Russian Federation (Jones 2003) or Soviet past that thought to have had estranged Georgia from Europe. Consequently, when in the late 1980s democratisation agenda triumphed in the political discourse of Georgia, *democracy* was widely associated with the 'West.' Being democratic, to a large extent, was understood as looking towards Europe. Countrywide consensus on the need for democratisation was marked by debates on how to achieve the twofold objective (Nodia and Scholtbach, 2006: 33).

Gamsakhurdia: Western/European outcast

Democratisation agenda triumphed in Gamsakhurdia's electoral campaign, which was based on the principles of respect for human rights, the rule of law, and freedom of press and association (Nelson and Amonashvili, 1992). However, internal competition for leadership led Gamsakhurdia to resort to authoritarian practices, branding other political actors as 'enemies' rather than competitors (Nodia & Scholtbach, 2006). For Gamsakhurdia, the main 'threat' came from within the country – he scapegoated anyone who could potentially be disloyal – from 'red intelligentsia' and university students to national minorities (Nodia, 2006).

Consequently, Gamsakhurdia's rising authoritarianism and exclusivist nationalist policies became increasingly irreconcilable with *democracy* as such. The paradox of Gamsakhurdia's rule lay in his attempt to reject and embrace past practices at the same time. He rejected the communist past but cultivated the traits of paternalism, centralization of power [in a strong executive], networks based on personal loyalty, and the rule based on his charisma (Jones, 2006).

Consequent political, territorial, and economic disintegration of the country overshadowed foreign policy considerations of the government. While

Gamsakhurdia's radical ethno-nationalist policies earned him the title of a 'parochial fascist' (Nodia, 2005) domestically, his governing style alienated him from the West. As a result, Gamsakhurdia sought for some form of 'pan-Caucasian' identity as an alternative to 'Europe' (Nodia and Scholtbach, 2006: 33).

Shevardnadze: a 'balancer'

In contrast to Gamsakhurdia, Eduard Shevardnadze knew the importance of abandoning radical nationalist rhetoric to enlist international recognition and Western economic aid (Nodia, 2006). Shevardnadze had a positive image in the 'West' due to his past tenure as the Minister of Foreign Affairs of the USSR, from 1985-1991.

During the early years of Shevardnadze's rule, political elite was fragmented on the question of what stance to take towards Russia. Some saw Russia as an important ally to solve Georgia's territorial conflicts and bringing economic prosperity. Preoccupation with the question of territorial integrity has outweighed other priorities, and Georgia joined the CIS in autumn 1993 in the hope of resolving its territorial issues (Nodia, 2006). As these expectations were frustrated, reformist camp under Zhvania's 'wing' (within Shevardnadze's government) pushed for a reorientation towards the West.

In September 1997, Georgian parliament decided to harmonize its legislation with the European Union (EU). Nevertheless, rather than seeking full integration, Eduard Shevardnadze sought practical cooperation with the EU. It took another two years for the Georgian government to officially declare its intention to join the EU as a full member state (Gahrton, 2010).

The paradox of the regime created by Shevardnadze lay in being a "democracy without democrats" (Companjen, 2010: 27), where certain space for civic and

political freedoms was allowed, without creating conditions for genuine political competition and participation (Nodia and Scholtbach, 2006). The real power was concentrated in the hands of a small power elite.

The majority of Zhvania's team of "young reformers" (Nodia and Scholtbach, 2006) came to politics through a moderate wing of the national liberation movement. Zhvania managed to recruit Western-educated people predominantly into the ranks of the party. These 'young reformers' were appointed to the main positions in the government. Saakashvili, for instance, while still a doctoral student at George Washington University in the US, was appointed the chairman of the key Parliamentary committee responsible for the legal reform agenda. His deputy was another young lawyer educated in an elite Russian university, Nino Burjanadze, the future Speaker of the Georgian Parliament, who currently sits in the opposition.

In 1999, Georgia was the first country in the South Caucasus to be admitted to the Council of Europe. The accession of Georgia into the CoE is attributed to the liberal European-leaning wing [under the leadership of Zhvania] of Shevardnadze's government. "Georgia *returned* to Europe! [emphasis added]" - that is how Zhvania described Georgia's accession to the Council of Europe. Nodia (2016: 14) notes, "This was considered not only a great victory for the country led by Shevardnadze but also recognition of the efforts of the "reformers" led by Zhvania." Achievements in the area of democracy development were restricted to the relatively small elite (Nodia 2006).

The failure by Shevardnadze's government to establish fully functioning democratic institutions, country-wide corruption and economic stagnation/downturn – all laid the basis for the end of Shevardnadze's rule. After electoral fraud in the parliamentary elections of 2002, mass protests took place. These events led to what is widely

known as the 'Revolution of Roses,' as a consequence of which Shevardnadze had to flee.

Saakashvili's 'W-turn': re-orientation towards the West

2003 marked a new era in Georgia's history of political reforms – the one with its own paradoxes. The 'European idea' gained increasing prominence in political discourse ever since the 'Rose Revolution' (Gvalia et al., 2011). The new Western-educated elite made extensive use of the term, justifying the policies and direction it was taking both domestically and internationally. In his inaugural address in January 2004, Saakashvili declared

[the European] flag is Georgia's flag as well, as far as it embodies our civilization, our culture, the essence of our history and perspective, and our vision for the future of Georgia.... Georgia is not just a European country, but one of the most ancient European countries... Our steady course is toward European integration. It is time Europe finally saw and valued Georgia and took steps toward us (Saakashvili, 2004 in Müller (2011: 64)).

On the other hand, Saakashvili officially proclaimed Georgia's Western/European and Euro-Atlantic aspirations. However, it was not the pro-Western/European discourse that was new, but real steps taken to reach those aspirations. The new power elite was more straightforward in formulating their foreign policy goals (Nodia 2006), they pushed for them more aggressively and recognized that the likelihood of achieving these targets lay through internal reforms. Reforms introduced by Saakashvili's government led to improvement on democracy ratings, strengthening of the domestic institutions, human rights records, reduction of corruption, enhancement of national economy and qualitative improvement of social conditions of life (Coppieters and Legvold, 2005; Fairbanks, 2004; King, 2004).

Saakashvili's 'Western' aspirations: documentary evidence

Among the majority of the post-Soviet states, Georgia seemed to be the one most involved in NATO activities. It has taken part in the NATO-led international peacekeeping force in Kosovo (KFOR) and International Security Assistance Force (ISAF) in Afghanistan and Iraq War Coalition. It has also been part of Multi-National Force (MNF-I) led by the United States of America, United Kingdom, Austria and Poland in Iraq. Georgia was the third largest contributor to NATO-led international peacekeeping force (KFOR) among the ex-Soviet states in Kosovo (here, with the notable exception of Russia and Ukraine (NATO-ISAF, 2014)²⁵.

Integration into Western political and security institutions is seen as a means to address Georgia's security considerations, which are discussed in length in the country's *National Security Concept* (NSC), adopted in 2005 and 2012 respectively. Saakashvili's government took a comprehensive approach to security, defining it in terms of economic development, democratic consolidation, as well as the potential revival of the conflicts in the region. Within the framework of seven years (2005-2012), Georgian government has 'reformulated' its security approach from making an implicit reference to Russia's activities (i.e. passportization) in Georgia's breakaway regions as a matter of concern (National Security Council, 2005), to explicitly calling its big neighbour as an "occupying force" (National Security Council, 2012).

After the Russo-Georgian war of 2008, European/Western sentiments have strengthened even more. As Russia became the major external threat (National

²⁵ The number of troops that Georgia sent to Kosovo far exceeded the number from Baltic States (Latvia – 20; Estonia 1, Lithuania 30) that by that time have just joined the alliance. The same applies to NATO-led International Security Assistance Force (ISAF) in Afghanistan (Armenia – 121, Azerbaijan – 94, Estonia – 159, Georgia – 805, Latvia – 131, Lithuania – 95, Ukraine – 27) and Iraq War Coalition (Armenia – 46, Azerbaijan – 250, Estonia – 40, Georgia – 2000, Latvia – 136, Lithuania – 120, Ukraine – 1650) (NATO-ISAF, 2014).

Security Council, 2012), the government withdrew its membership from Commonwealth of Independent States (CIS) – a regional organization that was created after the dissolution of the Soviet Union to include all post-Soviet republics, except for the Baltic States – in August 2009, three years after it withdrew from CIS's Council of Defence Ministers with the justification that "Georgia has taken a course to join NATO and it cannot be part of two military structures simultaneously" (Pravda, 2006). European and Euro-Atlantic political-military institutions such as NATO and the EU started to be increasingly seen as the only security guarantors (Gvalia et al., 2011: 37-38). Since then, the anti-government (ruling party) discourse has been based on the criticism of not taking firmer steps towards integration into the Western institutions and for making too many concessions towards Russia (Nodia, 2006).

The *National Security Concept* (2012) described integration into the NATO and the EU as a way to "*strengthen Georgia's security* and ensure its stable development [emphasis added]." While accession to NATO is referred to as an "important foreign policy objective of Georgia," its "stage-by-stage integration to the European Union" is stated to be "the most important directions of the nation's political and economic development" (National Security Council, 2012). The ultimate goal is stated to be integration into the EU. Whereas as the links with "world's leading democratic states" is referred to as "...important...in the development of a democratic Georgia," the document refers to the strengthening of the country's democratic achievements as a way to stability and development.

However, Georgian 'Roses' were not without their thorns. Among other things, Saakashvili was soon criticised for creating his own 'regime', endemic of uneven distribution of wealth (Papava, 2012), abuse of power (Nodia, 2006), lack of

institutional depth (e.g. frequent government reshuffles), and lack of transparency in decision-making process (de Waal, 2011). In a way, the countrywide clientelism was now restricted to the closed circle of people around Saakashvili. Informal political culture prevailed and success and failures revolved around Saakashvili's personality. Domestic policy experts concluded that political regime under Saakashvili was a combination of authoritarian rule and democracy (Gegeshidze, 2011; Leiashvili, 2010; Muskhelishvili, 2010), which constituted the basis of Saakashvili's government central paradox – ruling ‘democrats without democracy’ (Nodia & Pinto Scholtbach, 2006). Notwithstanding authoritarian means employed by Saakashvili in undertaking reforms, Saakashvili managed to gather the support of the US administration and the leadership of the EU (Papava, 2012: xii).

Margvelashvili: new aspiration for step-by-step integration with the EU

The opposition to Saakashvili's UNM party was rather weak. Nevertheless, the Gldani prison scandal in September 2012²⁶ strengthened the opposition, eventually bringing it to power. After the last elections, while the goal of integrating into the EU has not been dropped completely, the discourse about EU accession has become more moderate, highlighting a “gradual” (Civil.ge, 2014b) – step-by-step integration process with the European institutions.

The new government has announced the signing of the Association Agreement (AA) with the EU as its priority number one. The government sees the AA as part of what Minister of Justice Tea Tsulukiani (2013) has referred to as “*irreversible integration with the EU*” Pro-EU-integration direction was reiterated in Deputy Minister of Foreign Affairs Davit Zalkaliani's speech on *Georgian Foreign Policy in a New Era*

²⁶ The prison scandal erupted when systematic tortures taking place in Gldani prison were made public throughout September 2012. The scandal unveiled graphic images of torture, rape and other degrading treatment of inmates by the prison's guards. This has led to mass protests throughout the country Independent. (2012) Georgia's Abu Ghraib: The horrific stories of prisoner abuse. *Independent* . 130

in March 2014. Zalkaliani (2014) stated that the top priority for the current government [under the leadership of Irakli Garibashvili] was joining the family of European nations. He further added that among the "main objectives" were also obtaining a Membership Action Plan (MAP) from NATO, securing economic support from the West and instituting a visa-free regime under the Eastern Partnership programme.

3 ‘Bottom-up’ processes

Against this backdrop, nationalistic sentiments and political turmoil in the early years of Georgia's independence led to the formation of ethnic nationalist organizations, such as United Javakh Democratic Alliance (*Javakh*) in Javakheti and *Geyrat* in Kvemo Kartli. Both Javakh and Geyrat mobilized to defend the interests of ethnic Armenian and Azeri minorities in Javakheti and Kvemo Kartli respectively (Wheatley, 2005: 150). However, unlike Javakh, Geyrat never voiced calls for territorial autonomy for the region, where Azeri minority was compactly settled (Nodia 2010). Toward the end of the 1990s, the role of these organizations in minority-populated regions has gradually declined. Applying the ‘divide and rule’ policy on Javakh, Shevardnadze succeeded in co-opting its members into the local power structures. The same policy was used for the members of Geyrat (Wheatley, 2005: 150, 151). As these organizations were weakened, no serious “intermediary” organizations, acting as a ‘bridges’ between the state and ethnic minorities remained. The calls for regional autonomy have also been taken off the political discourse. The new electoral systems introduced in 1992, 1995, and 1999 produced few national minority deputies in Georgia’s parliament (Jones, 2006). In the last 2016 elections,

the number of ethnic minorities saw a record high representation in the parliament, which amounted to 11 seats only (7.3% of 150 seat parliament) (CRRC, 2016). The underrepresentation of minorities in Georgia's parliament, as well as the failure of Georgia's minorities to effectively mobilise around the issues of minority rights, restricts bottom-up avenues of influence.

4 Comparative conclusion: Process tracing analysis

This chapter has shown that despite internal political disagreements on foreign policy direction (Jones, 2004) and the system of governance (Dryzek and Holmes, 2002) in the early days of Georgia's independence, officially, at the level of political discourse, no credible political force, including opposition to the ruling government, has ever questioned the need for establishment of democratic form of governance (Nodia, 2006). Parallel to this, pro-European sentiments, in the form of references to Georgia's 'intrinsic European character' (Nodia 1998) have always been present in the country ever since it proclaimed its independence from the Soviet Union. Yet, while understanding of Georgia's 'Europeanness' has been diluted, it took a decade for the domestic ruling elite to officially reorient Georgia's foreign policy towards the EU/West. In this regard, two questions render attention - *what was the rationale behind the shift in foreign policy direction and how credible the aspirations to join the EU (and NATO) were in the eyes of Georgia's ruling elite?* Before these questions are addressed below, the next section explores the meaning/s that Georgia's ruling elite and population attached to its 'European roots.'

4.1 Georgia's Europeanness: meaning

In Georgia, understanding of *Europe*, or European norms, has been diluted. While the terms 'European' and 'Western' are used interchangeably (Nodia, 1998), the two terms are heavily loaded with idealized images of Europe/West. The West symbolized progress, prosperity, democracy, civilization, etc. - everything what communism was not (Nodia and Scholtbach, 2006). The idealisation of the West by Georgian elite came as the result of their Soviet experience (Jones, 2004: 87). However, from 1999 to 2003 political elite's emotional appeal to Georgian 'intrinsic European character' did not translate into real policy goals.

While ruling elite's understanding of the West was reactionary – defined in terms of opposition towards communist past, the population in general exhibited conflicting views of European norms. Analysis of political discourse by Dryzek and Holmes (2002: 149) shows, population's understanding of Western conceptions of democracy remained extremely underdeveloped during Gamsakhurdia and Shevardnadze's periods. Very often the values that they exhibited were contradictory. Thus, for instance, while expressing enthusiasm towards democratic governance, Georgian population has to a great extent supported 'presidential statism' - arguing for the need of strong and (sometimes) authoritative leader to promote the democratic system. The role of elections and the parliament was downgraded and parties treated with scorn. Respondents have expressed the opinion that parties should yield before presidential power (Dryzek and Holmes, 2002: 154). At the same time, the study shows strong support for 'firm constitutionalism' - the rule of law above all. At the same time, legalism is supported not for the sake of human rights, but social order instead (Dryzek and Holmes, 2002: 155). The link between social order, security and 'the West' becomes more vivid after 2008 Russo-Georgian war.

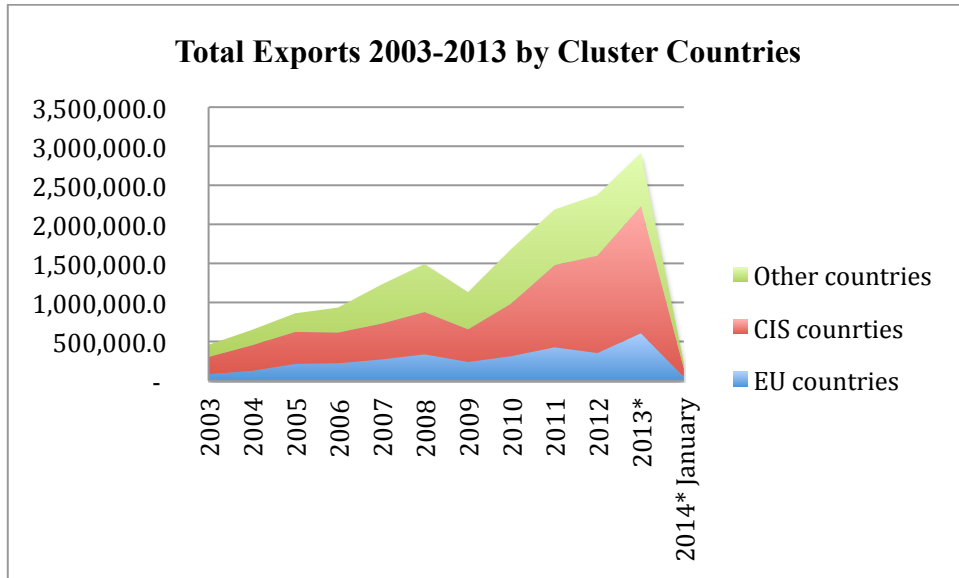
While the understanding of European norms remained diluted, there was no question as to the benefits of institutional integration with Western IOs, including potential membership perspective: prosperity and security. Petty corruption, economic struggles and ineffectiveness of state institutions – the factors that lay the ground for ‘Revolution of Roses’ in 2003, added up to the desire to break-up with the past and embark on a new journey. That is the ‘alternative’ that the new elite promised – an alternative that thought to bring prosperity and security. Soon after 2003, Georgia’s ruling elite unveiled its intentions of integrating into the EU and NATO.

4.2 Credibility of EU/NATO membership

It is hard to judge how Georgia’s elite assessed the credibility of its aspirations to integrate with the EU institutions and join NATO, given that officially it did not qualify for either of the memberships. In this regard, two scenarios/options are possible: first, while announcing its Western aspirations, Georgia's ruling elite could have hoped that EU/NATO membership criteria would be subject to revision in the future. In such scenario, the ruling elite must have taken all possible steps (in the realm of economy, security, etc.) to show its determination to join the ‘club’ of Western states. Under these conditions, we could have expected that incentives provided by the EU would be used. Under the second scenario, the ruling elite might have had a more pragmatic approach towards its ‘return’ to Europe. While using a discourse that resonated with its population (namely, taking a pro-Western turn), the ruling elite might have hoped to make best out of its ‘closer association’ with Europe, in terms of economic assistance, governmental grants, etc. By using process tracing analysis, this section will shed light on which of the two rationales lay at the heart of decision-making process of Georgia's ruling elite.

A closer look at the process shows, despite the official pro-Western/EU rhetoric, Saakashvili's government did not use all the means/tools available to get closer to Europe. Thus, for instance, when after the Russo-Georgian war of 2008, EU has offered to sign the Deep and Comprehensive Free Trade Area (DCFTA) agreement with Georgia on a condition of introducing reforms in the trade-related area, the government did not use the offered 'carrot.' Though the suggestion was welcomed, the government signed a memorandum with IMF after several days, committing themselves not to undertake reforms mentioned above in the near future (IMF, 2008). No other steps were taken by Saakashvili's government to bring Georgia closer towards signing DCFTA with the EU. Instead, the government embarked on what Papava (2012) referred to as 'Singaporean model' of economic development. De Waal (2011) notes, it is precisely such ambiguous signals sent by Saakashvili's government to Europe that kept the EU 'passive' and 'indifferent' towards Georgia (Gvalia et al., 2011). EU officials revealed concerns on their part that "the Georgian side is only going through the motions of starting negotiations for political reasons but without wishing to make a long-term commitment" (de Waal, 2011: 37). Rather than seeing the EU as an economic development model, Saakashvili's government sought 'closer association' with the EU as an opportunity to prosper economically on its own terms. In the same vein, his anti-Russia rhetoric lacked substance. In general, since 2003, Saakashvili's 'W-turn' (reorientation towards the West) did not drastically change its trade, which is the main component of Georgia's GDP. In 2012 it constituted 16.6% of Georgia's GDP. As is shown in Graph 3.1, Georgia's main trading partners remain former Soviet countries (and CIS), Turkey and (only thirdly) the EU.

Graph 3.1: Total exports of Georgia by cluster countries, 2003-2013



Source: National Statistics Office of Georgia, www.geostat.ge

Despite pro-Western (at the same time, anti-Russian) discourse within the country, Georgia has in fact widely “opened the doors” for Russian investments after the “Rose Revolution”, and these interests have not diminished despite the fact that Russia declared the closing of its market for Georgian agricultural products from the spring of 2006 (Papava, 2012: 56).

Politically, ‘Russian card’ is widely used in political discourse to justify the enactment of various policies. Usually, references to Russia/Soviet past are accompanied by mystified adjectives and sound expressions, such as civilization, ‘historical cataclysm’ (National Security Council, 2012), etc. It is also not uncommon to trace origins of intolerance, negative cultural stereotypes and suspicious attitude towards national minorities to Russia *or* Soviet Past – using these terms interchangeably (Civil.ge, 2014a). Nonetheless, Russian pressure does indeed exist (e.g. 2008 war, passportization policies in the breakaway regions, manoeuvres on the borders, etc.).

In practice, however, it could be observed that policies towards Russia are more pragmatic. Despite Russia's sanctions in the form of an embargo against Georgia's

major agricultural products (e.g. wine, mineral water, etc.) since 2006 (Miller, 2006), Georgia made various attempts to increase economic activity between the two countries. Thus, for example, Georgia has unilaterally lifted visa requirements for Russian citizens, although the same principle was not applied to Georgian citizens who want to visit Russia. As is depicted in Graph 3.2, every time embargoes are lifted, there is a visible increase in Georgian exports to Russia, as was the case in 2013.

Graph 3.2: Total exports and imports with Russia, 1995-2013



Source: National Statistics Office of Georgia, www.geostat.ge

Margveashvili's government, on the other hand, moved the process from its dead point and made steps towards adopting first draft Law of Georgia "on the Amendments to the Law of Georgia on Free Trade and Competition" on 21 March

2014 (Transparency International, 2014), but also DCFTA in September 2014. Georgia has also signed an *Association Agreement* with the EU on 27 June 2015. The economic model that this government had was more compatible with the model that EU promotes (Delcour, 2013). In particular, among other things, unlike Saakashvili, Margveashvili's government was in favour of more stringent anti-monopoly regulations and a pro-employee Labour Code (Papava, 2012: 94)²⁷. Following the rationalist logic, it could be concluded that incentives provided by the EU after 2003, and though they were increased, were not big enough for the Saakashvili's government to alter domestic cost-benefit calculations and to, consequently foster compliance with anti-discrimination conditionality covered EaP. The same 'carrot,' however, was enough to incentivize Margvelashvili government to undertake changes. Since the structure of Georgian economy has to a large degree remained unchanged since 2012, it could be concluded that it is not the 'carrots' per se that are important, but if those 'carrots' are deemed essential to be pursued by the government. To summarise, the process-tracing analysis revealed that Saakashvili's policies were more pragmatic and the government did not pursue pro-EU integrationist path at all costs. It also showed the carrots provided by the EU are used when the ruling government's policies are in line with the changes fostered by IOs (EU in particular).

4.3 Country-level factors: Implication for implementation of the FCNM

Given its proclaimed 'pro-Western' foreign policy orientation, adherence to 'civic' model of nationhood and the dominant position in the parliament, it is expected that transposition and implementation of the FCNM provisions will be more likely, both from 2004-2008 and from 2008-2012. In line with hypotheses presented in Chapter II,

²⁷ For more information on the reforms under DCFTA see Kutivadze N. (2011) Georgian Government's New Legislative Initiative – Universal Competition Agency Without Sector Regulator? Tbilisi Transparency International Georgia. 138

we would expect adoption and implementation of reforms to be more likely during after 2003, as we observe a more favourable constellation of a few explanatory conditions: the recommendations are in line with the ruling elite’s policies of civic, rather than ethnic nationalism; and the ruling elite exhibited a stronger pro-European/Western orientation (see Table 3.3).

Table 3.3: Summary of constructivist explanatory variables affecting implementation of norms across time in Georgia, and the resulting expectations for compliance

		1995-2003	2003-2012	2012 - to date
IV	Western/European Identity/Orientation	Weak	Strong	Strong
	Ethnic/Civic Identity	Ethnic	Civic	Civic
DV	Compliance	Less likely	More likely	More likely

However, Georgia’s decision to harmonize its legislation with the EU dates back to July 1996, when it applied to become a member of the Council of Europe (PACE(1999)209). In two years Georgia became a member of the CoE. Despite these small steps, which were attributed to liberal and Western-oriented wing of Shevardnadze's government under the leadership of Zhvania (Nodia 2006), no substantial reforms were undertaken in the field of minority rights. The majority of minority-related reforms were undertaken within the cluster of two timespans – first, from 2004-2008 under the leadership of Saakashvili; and second, from 2012-2014 under the rule of Margvelashvili (see Chapter IV) – both representative of the new government's first term in power. These two clusters vary on the variable of ‘size and credibility of incentives.’ What is kept constant, on the other hand, are the government's pro-EU/Western orientation on the one hand, and their commitment to a ‘civic’ [as opposed to ethnic] understanding of nationhood on the other. Hence, it could be concluded that both adherence to ‘civic nationalism’ and ‘pro-Western/European orientation’ are favourable domestic conditions that provide a

fertile ground for compliance with international recommendations for minority rights to take place.

Before we proceed with the analysis of the implementation of the linguistic rights, religious rights, and non-discrimination provisions (see Chapter IV), the next section will present an analysis of why the FCNM was adopted in the first place, at the time it did. Also, why having had approved the FCNM, the government failed to adopt its longstanding recommendation to ratify the ECRML?

5 Ratification of the FCNM: case study

Upon accession to the to the Council of Europe in 1999, Georgia pledged to 1) concerning conventions sign and ratify both the *Framework Convention for the Protection of National Minorities (FCNM)* and the *European Charter for Regional and Minority Languages (ECRML)* within a year of its accession. The government signed the FCNM on 21 January 2000 but failed to take further actions towards its ratification for the next five years. Neither were there any developments on the issue of ECRML. In the aftermath of 2003 'Rose Revolution', the *Parliamentary Assembly of the Council of Europe (PACE)* acknowledged the need to “negotiate with the new authorities of Georgia new deadlines under which they will be obliged to fulfil the commitments which Georgia undertook upon its accession to the Council of Europe [...]” (PACE(2004)1363). The willingness to reconsider the deadlines was described as a sign on the part of PACE of “understanding and supporting [...] the new authorities” (PACE(2005)1415)). PACE ((2005)1415) stressed, the new "authorities should maintain, and even accelerate, the pace of reforms in accordance with Council of Europe standards and principles." The following deadlines (concerning the FCNM and ECRML) were agreed with the Georgian authorities:

- a. sign and ratify the European Charter for Regional and Minority Languages before September 2005;
- b. ratify the revised European Social Charter and the Framework Convention for the Protection of National Minorities, before September 2005;

Consequently, the new government honoured its commitment to ratify the FCNM on 22 December 2005, and the FCNM entered into force on 1 April 2006. However, Georgia is yet to sign and ratify the ECRML.

FCNM

Discussions preceding the ratification of the FCNM were dominated by concerns over 'repercussions' of the signing of the FCNM (Trier and Sambasile, 2005). Among the most widespread fears were (a) belief that ratification would create linguistic or cultural ghettos within the country; (b) concern that the content of the FCNM would be manipulated for supporting secessionist and separatist discourses, which would eventually undermine Georgia's territorial integrity (Trier and Sambasile, 2005).

CoE experts²⁸, accompanied by Igor Gaon, the *Special Representative of the Council of Europe Secretary General* in Georgia, tried dispersing those fears by drawing positive examples from 'European' experiences [Swedish in particular]. At the conference²⁹ held for members of parliament and government representatives on 17-18 September in Gudauri, Igor Gaon described the FCNM as "a convention whose ratification required limited efforts in terms of ensuring compliance with its content, scope and provisions" (in Trier and Sambasile, 2005: 10). In his speech, underlying the importance of keeping up with the commitments given upon accession into the CoE, Mr. Gaon emphasized the utility of ratifying the FCNM for addressing various problems faced by minorities in Georgia. Mr. Gaon paid particular attention to the

²⁸ Alan Phillips, Former Vice-President of the Advisory Committee for the FCNM.

²⁹ The conference was organized by the European Centre for Minority Issues Caucasus Office and sought to raise awareness of the contents of the FCNM.

lack of knowledge of state's official language among minorities. Additionally, the Ambassador emphasised that Georgia ought to ratify the Convention without declarations on specific articles as was done by Latvia. Alan Phillips – former Vice-President of the Advisory Committee for the FCNM – in turn, described the FCNM as a tool to manage diversity that can promote minorities' integration, preventing either assimilation or attempts at separatism. The message that CoE experts tried to deliver was that the protection of national minorities is essential to stability, democratic security and peace. Mr. Phillips added ratification of the FCNM in good faith would "enable Georgia to become integrated smoothly into European structures and fulfill the EU Copenhagen criteria for pre-accession agreements for entry into the EU in the long term" (in Trier & Sambasile, 2005: p. 15). As reported by the conference organizer *European Centre for Minority Issues* (ECMI, 2005), by the end of the weekend it appeared that many of the parliamentarians and government representatives' concerns were alleviated.

Ratification of the FCNM was 'tied up' to "a clear signal of intent both domestically and internationally that Georgia is committed to promoting genuine harmony and inclusiveness to all members of society irrespective of their ethnic background" (ECMI, 2005).

The Parliament of Georgia passed the *Resolution on the ratification of the Framework Convention for the Protection of National Minorities*³⁰ on 13 October 2005 with a 125-5 vote. The Resolution defined the term "national minority" as a group of individuals, whose members are (a) Georgian citizens; (b) differ from the dominant part of the population in terms of language, culture and ethnic identity; (c) have been

³⁰ Unofficial translation of the Resolution is provided in Annex A, in Trier & Sambasile (2005). 142

living on the Georgian territory for a long time; (d) live in compact settlements on the Georgian territory;

ECRML

The reluctance to ratify ECRML is attributed to a deep-seated belief that granting minorities special privileges and nurturing a separate self-identification might lead to secessionist movements within the country or to inter-ethnic strife – the attitude shared by both the ruling government and other strata of society. This is related to the question of identity and its ‘building blocks.’ Language remains one of the most important markers that differentiate ‘us’ from ‘others’ – both for the Georgian majority, as well as minorities. Nurturing linguistic identity and granting them regional statuses invokes the fears of inter-ethnic conflicts (Interview with Gogeliani, 18 November, 2014 and Sordia, 12 November, 2014). The importance of security consideration and psychological stigma attached to the issue becomes more evident when one analyses the actual policies at hand. Some 35 paragraphs of the ECRML Charter are already being implemented in practice (Interview with Kintsurashvili, 25 November, 2014 and Gogoladze 14 November, 2014). Ms. Kintsurashvili – former *Adviser to the President on Civil Integration Issues* under Saakashvili's government – explained, there was no problem of implementation, but rather of formalization of the Charter. Committing to policies for the preservation of minority languages without giving any formal status to the process does not entail any political costs. It cannot possibly lead to "wrong interpretations" (Interview with Gogeliani, 18 November, 2014) on the part of either majority or the minority for any status of the language on its own. Adoption of ECML is seen in zero-sum terms – as a means to a weakening of the state language (Interview with Sordia, 12 November, 2014) – this run against

Saakashvili's programme of 'uniting nation' under a 'common' societal culture, based on the Georgian language.

In her interview, Ms. Kintsurashvili (25 November, 2014) attributed the failure by Saakashvili's government to ratify ECRML to the lack of political consensus between different groups within the society. However, as the practice has shown, Saakashvili himself has expressed his opposition towards ratification of ECRML after 2012 elections. In March 2013, for instance, when Akhalkalaki City Assembly appealed to the Parliament with a request to ratify the Charter and to grant Armenian regional language status, Saakashvili (then the President) expressed his opposition to the initiative due to national security considerations (Panarmenian, 2013). On the other hand, the State Minister for Reintegration issues, Paata Zakareishvili said, 'sooner or later' Georgia will have to ratify this document as a part of 'country's international commitments' (Civil.ge, 2013). Zakareishvili also said that back in 1999, Saakashvili was the one who lobbied Georgia's ratification of the document. And added, "Saakashvili explained his actions by the intention to expedite Georgia's accession to the Council of Europe" (Panarmenian, 2013).

Mrs. Gogeliani (interview notes, 18 November, 2014) said that the new government under the Prime Minister Irakli Garibashvili very actively pushed for the adoption of the Charter in the Parliament. However, the process was blocked due to the lack of "consensus among governmental agencies, as well as in the society in general." In her view, formalization of the Charter in Parliament might cause political speculation from nationalist political parties and radical groups.

Indeed, after the discussion about ratifying ECRML was revived by the new Georgian government under Ivanishvili in March, 2013, Georgian Orthodox Church has expressed its strong opposition to the adoption of ECRML and described it as being

"unacceptable, because it will cause strengthening of separatist movements and will create new and very difficult problems for ...[Georgia]" (Democracy & Freedom Watch, 2013). GOC stated that the "ratification of this Charter...is "inadmissible" before the level of knowledge of the Georgian language among national minorities remains low and before Georgia's territorial integrity is not restored" (Civil.ge, 2013). Another reason why ECRML is not supported in Georgia is its perceived threat to 'internal separation within Georgian society' itself (Interview with Sordia, 12 November, 2014). There are a few dialects within official Georgian language – Svanetian, Mingrelians. There are fears that once we adopt the Charter, these languages will be given special statuses and thus develop an identity of its own. This argument finds resonance in Zakareishvili's statement, supporting adoption of the Charter, where he states that "the charter is 'really flexible' and it gives an opportunity for the country to make the decision to grant different status to different languages on different territories of Georgia" (Democracy & Freedom Watch, 2013).

It is also noteworthy that unlike in the case of the teaching of Georgian and development of multilingual language policies, IOs did not play an active role in fostering adoption of ECRML. As Nino Gogoladze, *National Program Manager of OSCE HCNM in Georgia* put it, "we have not, as an organization, pushed the government to ratify the chart, but we encouraged it to do so..." (Interview with Gogoladze, 14 November, 2014).

Hence it could be concluded that FCNM was adopted to boost international reputation. However, this was possible due to 'non-conflictual' content of the FCNM with the Saakashvili's 'national project' – this is precisely the reason why ECRML was not adopted.

To sum up, this chapter showed that pro-European identification/orientation among Georgia's political leadership went in parallel with the introduction of more moderate policies towards its minorities. Thus, for instance, Gamsakhurdia's alienation from the West was accompanied by radical rhetoric against minorities, while Shevardnadze's 'balancer' (between the 'West' and the 'East') was reflected in the adoption of a few legislative acts and policies, without proper implementation. Saakashvili's firm determination to 'return to Europe' found resonance in his 'nation-building' policies, where the design for minorities was to integrate into Georgian societal culture. It is within this period that FCNM was also adopted. Hence, we would expect compliance with individual issue areas (linguistic rights, religious rights and provisions of non-discrimination) – subject of the next Chapter IV to be more likely beginning from 2003.

CHAPTER IV. Compliance with Linguistic rights, Religious rights, and Non-discrimination provisions in Georgia

Georgia became a member of the Council of Europe (CoE) in 1999. Upon accession to the Council of Europe, Georgia pledged to sign and ratify the *Framework Convention for the Protection of National Minorities (FCNM)* within a year of its accession. It took six years for the Georgian parliament to approve the FCNM. The Convention entered into force on 1 April 2006. With the signing of Framework Convention (FCNM), by Presidential Order № 639 (August, 2005), the government of Georgia developed *The National Concept for Tolerance and Civic Integration* (henceforth National Concept). Adopted on May 8, 2009, the National Concept sought to "support the building of democratic and consolidated civil society based on shared values, which considers diversity as a source of its strength and provides every citizen with the opportunity to maintain and develop his/her identity" (National Concept 2009-2014). The National Concept was based on the..." international and regional treaties, and recommendations that Georgia is party to, or *will join in the future* [emphasis added]" (National Concept 2009-2014). Among other international conventions, the National Concept lists *International Convention on the Elimination of All Forms of Racial Discrimination*, *Framework Convention for the Protection of National Minorities (FCNM)* and *European Charter for Regional and Minority Languages (ECRML)* as its legal basis. The Concept was an embodiment of the government's 'Action Plan' on how to implement the FCNM. The subject of this chapter is the implementation of FCNM provisions in Georgia – that is, Georgia's behavioural compliance with FCNM against issue-specific explanatory variables: domestic adjustment costs and salience of norms among the general population.

This chapter focuses on the implementation of IO recommendations concerning three issue areas: linguistic rights, religious rights and non-discrimination provisions. Analysis of implementation of each issue area is done against issue-specific explanatory variables – that is, the domestic salience of norms among the general population (H2), domestic adjustment costs (H3), and the presence of veto players (H4). As has been presented in Chapter II, H2 & H3 will be analyzed under 'domestic adjustment costs' category.

The chapter is structured in the following way. First, recommendations by IOs, then challenges of implementing these recommendations, then post-accession implementation of the changes are presented. Each section focusing on separate issue areas is concluded by a comparative conclusion of implementation of all recommendations pertaining to the issue under investigation. After analysis of the implementation of all three issues is presented, Section 4 of the chapter presents a general comparative analysis of the implementation of the three issue areas. Once, and if, issue specific explanatory variables fail to deliver consistent results (values on dependent variables), the analysis will then be moved one level up – to county-level explanatory variables, which were subject to analysis in Chapter III.

This chapter concludes that implementation of principles of the Convention varies across issues areas. It is shown throughout the chapter that issue-specific explanatory variables failed to produce consistent outcomes. In the field of linguistic rights, under no opposition/veto players, economic and/or institutional costs do not influence the pattern of norm adoption. Against this background, the salience of norms among the general population was positively correlated with the implementation of norms in the area of linguistic rights, while high economic/institutional costs did not serve as an impediment to reform. In the area of religious rights, under low domestic economic

and/or institutional costs, implementation pattern was positively correlated with the presence of veto players, domestic opposition and salience of norms domestically. However, analysis of compliance with anti-discrimination provisions has shown, under low economic and/or institutional costs, the presence of domestic opposition and low salience of the issue among the general population, formal compliance still takes place.

As the next step, country-level explanatory variables were used to account for inconsistent outcomes exhibited by issue-specific explanatory variables. The chapter concludes that in Georgia, international pressure post-accession was successful in cases where IO recommendations went in line with the ruling government's preferences. In particular, it's vision of nation-building policies and economic policies. By using process tracing analysis, it shows that government's pro-EU/Western orientation has not been deterministic in the rationale behind norm adoption post-accession. While ruling government's preferences determined the form of post-accession changes, domestic opposition/veto players in the face of GOC (when and if present) have significantly shaped the content of these changes and quality of behavioural compliance.

1 Linguistic rights: *Recommendations, Challenges, Compliance*

1.1 International Recommendations

During the first decade of Georgia's independence, poor command of Georgian language – and its implications was identified as one of the major factors impeding the integration of minority groups into Georgian society. The 2002 population census showed, only 31% of members of national minorities could speak Georgian fluently (Wheatley, 2009b). This has significantly restricted their access to information, public

services, education and employment (CRI(2002)2; CRI(2007)2; ACFC/OP/I(2009)001).

After ratification of the FCNM by the Georgian Parliament in 2005, international attention has been directed to promoting adequate training of Georgian language, without impeding the learning of minority languages (ACFC/OP/I(2009)001). This was sought to be achieved through (a) eliminating linguistic barriers to the access of (general) education, (b) teaching of Georgian language, and (c) education/teaching in minority languages. Based on the principles of *equality* and *non-discrimination* (Article 4.1, 4.2 of FCNM), these recommendations set the aim of maintain[ing] and develop[ing] the culture... to preserve the essential elements of the identity of minorities (Article 5.1 of FCNM); foster[ing] knowledge of the culture, history, *language* and religion of national minorities (Article 12.1 of FCNM); promot[ing] equal opportunities for access to education at all levels (Article 12.3 of FCNM). The teaching of Georgian language has nevertheless been of central concern, as it prevented minorities from fully participating in country's social, political and economic life. These recommendations are summarized in Table 4.1, with the resulting expectations and indicators of formal and behavioural compliance.

Table 4.1: IO recommendations and indicators of formal and behavioural compliance with Linguistic Rights

	<i>Formal compliance</i>	<i>Behavioural compliance</i>
<i>Access to Education</i> (CRI (2002)2)	<ul style="list-style-type: none"> - Provide equal access - Introduction of the new system of bilingual education (CRI (2007)2) 	<ul style="list-style-type: none"> - Increase in number of minority students in higher education

<i>Teaching of Georgian language</i>	<ul style="list-style-type: none"> - Introduction and elaboration of the policies and action plan on teaching Georgian (also ACFC/OP/I(2009)001 & OSCE HCNM). 	<ul style="list-style-type: none"> - Increase in the number of hours devoted to teaching the Georgian language - Provide suitable textbooks for learning Georgian as a second language (free of charge CRI(2010)17) - organize school partnerships and exchanges between Georgian-speaking schools and non-Georgian speaking schools (CRI(2010)17) - Increase in the number of teachers of Georgian as a second language - Ensure adequate (and increase) financial resources for training teachers of Georgian as a second language (CRI (2007)2) - Provide training for teachers of Georgian as a second language
<i>Teaching in minority languages</i>	<ul style="list-style-type: none"> - Introduction and elaboration of the policies and action plan on teaching in minority languages 	<ul style="list-style-type: none"> - Provide schoolbooks in minority languages - Increase in number of bilingual schools

1.2 The nature of challenge

Poor knowledge of Georgian language among minority groups is associated with legacies of the Soviet Union, during which state support for cultural and linguistic diversity was a norm. Russian remained a *lingua franca* within the country. As the Russian language started losing its importance after Georgia gained its independence, the lack of Georgian language skills restricted minorities' access to education and job market (Matveeva, 2002).

In the early years of independence, the lack of adequate training of Georgian language and the poor quality of education in minority languages were the two most important issues impeding the integration of minorities into Georgia's societal culture. Schools that provided education in minority languages (including Russian) (henceforth, minority schools) were left from times of the Soviet Union. The government failed to integrate these schools into central Georgian education system effectively. The curriculum followed by minority schools was dependent on their corresponding kin-

states and Russia (in cases where the language of instruction was Russian) (Amirejibi-Mullen, 2011: 273). On the other hand, lack of qualified teachers and adequate textbooks contributed to poor quality of teaching of the Georgian language. Together, these factors contributed to *de facto* segregation of these schools from the center and poor integration of minority schoolchildren into Georgian societal culture.

Domestic adjustment costs

Legal provisions are ensuring the right of ethnic minorities to receive school instruction in minority languages while learning Georgian w enshrined in Section 1.4 of the Law on Education (1997). Thus, in effect, the teaching of Georgian was made compulsory by the legislation before Georgia's accession into the CoE. Other provisions governing the use of language in public sphere were Law on Public Office (1998), Law on Advertising (1998), Organic Law on the Common Courts of Georgia (1997), Administrative Code (1999) and Organic Election Code (2001). It was thus not the lack of adequate legal protection, but the implementation of thereof that was problematic.

Rather than presenting a legislative challenge, the biggest impediment to compliance with IO recommendations in this regard was associated economic costs. First, fulfilling the tasks, such as providing textbooks, teachers, etc. (see Table 4.1) required committing financial resources. At the same time, these recommendations rendered serious institutional reforms to integrate minority schools into the general education system, while at the same time changing the curriculum to adequately address the need of both majority and minority communities.

The inability of minorities to organize (Wheatley, 2009a) to lobby for the better quality teaching of minority languages left the government as the sole actor in the

area. At the same time, there has been no substantial domestic opposition towards teaching of Georgian language among minority groups. They did, however, express concerns that teaching of Georgian might be implemented at the expense of minority languages as such. Consequently, the lack of organized lobbying for better quality instruction in minority languages and the lack of opposition to the teaching of Georgian language among minorities incurred no political costs for the government for introducing changes.

Salience of norms among the population

As has been elaborated in Chapter III, language is one of the building blocks of ethnic identity – both for ethnic Georgians and minority groups. Gamsakhurdia's radical ethno-nationalist rhetoric not only strengthened exclusivist ethnic Georgian identity but also that of minorities, making both communities suspicious of each other's intentions. The International Republican Institute (2011) survey of Georgian public opinion showed, 96% of Georgians consider ‘the ability to speak Georgian’ important to being Georgian. Policies that seek to teach of Georgian language to minority groups are widely supported by the general population. Providing access to minority students to higher education (where the language of instruction is mostly Georgian) is seen equally important. These policies are hence salient. On the other hand, providing education in minority languages, even though less salient, is not problematic *per se* – as long as it is not done at the expense of the use of Georgian language in the regions populated by minorities. Table 4.4 below summarizes the settings of the key explanatory factors concerning linguistic rights and the resulting expectations for compliance.

Table 4.2: Key explanatory factors with regard to linguistic rights, and the resulting expectations for compliance

Linguistic Rights	H2: Domestic salience of norms	H3: Domestic adjustment costs	
		Economic and/or institutional costs	Opposition/ veto players
Teaching of Georgian	High	High	No
<i>Implementation</i>	<i>More likely</i>	<i>Less likely</i>	<i>More likely</i>
Teaching of minority languages	Low	High	No
<i>Implementation</i>	<i>Less likely</i>	<i>Less likely</i>	<i>More likely</i>
Access to Education	High	High	No
<i>Implementation</i>	<i>More likely</i>	<i>Less likely</i>	<i>More likely</i>

It is thus expected, given the salience of norms, recommendations on providing "Access to Education" and "Teaching of Georgian language" are more likely to be complied with. The same cannot be said about "Teaching of minority languages," which lacks salience among the general population. On the other hand, domestic adjustment costs of implementing these recommendations draw a less optimistic scenario and are expected to undermine attempts to implement reforms.

The next section provides a comprehensive analysis of post-accession formal and behavioural compliance with recommendations regarding linguistic rights. Afterwards, the findings on post-accession compliance are summarized in Table 4.4, followed by a cross-issue comparison of compliance pattern against the main explanatory factors.

1.3 Post-accession compliance with recommendations on Linguistic Rights

Formal compliance: legislative and policy changes

In line with IO recommendations (see Table 4.1), Georgian government undertook some legislative and policy changes since 2003. Among these are the Law on General

Education 2005, the Law on Higher Education 2009 and the Law on Vocational Education. The government has also introduced the National Concept (2009-2014) as a practical guide for the implementation of the changes.

While the right of every citizen to receive education and to choose the form of teaching was encrypted in the Article 35.1 of the Constitution of Georgia, the amended Law on General Education 2005 *reaffirm[ed] the right to education (Article 9) and the 'equal access for all' (Article 3.2. A.). The law stipulates that the language of study at general education institutions shall be Georgian (Article 4.1)³¹, while citizens of Georgia, "whose native language is not Georgian, have the right to receive complete general education in their mother atongue" (Article 4.3). The same law required all educational institutions to teach Georgian language and literature, the history and geography of Georgia as well as "other social sciences" in Georgian by the academic year 2010-2011 at the latest (Articles 5.4 and 58.5). Amendments to the General Education Law of 2010 *have further developed the concept of multilingual education, which was defined as "education, which aims to develop a pupil's deepening linguistic competence and understanding in a variety of languages."**

The *National Concept* (2009-2014), introduced as a practical guide for the implementation of aforementioned legislative changes focused on improvement of six targets: first, better access to pre-school education, general education and higher education. Secondly, it set the goal of improving command of the state language among persons belonging to ethnic minorities, while protecting minority languages. Among other goals was to provide access to vocational training programmes and adult education.

The policy measures undertaken to improve access to and quality of higher

³¹ While in the Abkhazian Autonomous Republic – Georgian or Abkhazian" (Article 4.1)

educational systems included the introduction of compulsory *Unified National Examination* by the National Assessment and Examinations Centre (NAEC) in 2005. The unified examination sought to provide (a) standardized selection of the candidates; (b) skills and knowledge assessment and (c) government grants to best students. *Later, after 2010 amendments to the Law on General Education, Multilingual Education Support Program was approved by the Minister of Education and Science.* Implementation of the goals outlined in the National Concept proved challenging, due to technical and economic reasons, along with the inability of the relevant institutions to develop and/or confirm existing plans on implementation. The following section provides a detailed description of the implementation of the legislative and policy changes outlined in this section.

Behavioural Compliance: Implementation of legal and policy changes

Access to Education (AE)

AE.1 – providing equal access to higher education

From 2005 – 2010, the crux of the issue of inclusive education lay in the requirement of demonstrating good knowledge of Georgian language to enroll in higher education institutions. Hence, while designed to provide equal opportunity for all - *Unified National Examinations* proved to be discriminatory against students belonging to ethnic minorities. Failing to demonstrate adequate knowledge of Georgian language, students belonging to ethnic minorities were highly disadvantaged vis-à-vis their ethnic Georgian peers (Mekhuzla and Roche, 2009a: 36). For this reason, the first results of the 2005 Unified National Examinations have shown only 5% success rate of Armenian speakers from Akhalkalaki (Wheatley, 2006: 15), whereas the numbers were even less for Azeri-language schools from Marneuli district, with the success

rate of around 2% (Mekhuzla and Roche, 2009a).

Articles 5 and 58 of the Law on General Education (2005) raised concerns among minorities that they would not master Georgian well enough by 2010. They also perceived the law as a threat to their ethnic identities, which is intertwined with language. The existence of a broad consensus among ethnic minorities on the importance of mastery of Georgian language for integration has not prevented tensions, arisen as a result of establishing Unified National Examinations, which foresaw no special provisions for ethnic minority students (Bachmann 2006: 8 in Amirejibi-Mullen, 2011). To ease the tensions and to undermine discriminative effects of the Unified National Examinations, following an intervention by Saakashvili, ethnic minority students were granted the right to pass the unified national exams in Armenian and Azeri (Vashakidze, 2008). While announcing that “poor knowledge of Georgian should not be an ‘insurmountable’ obstacle for anyone wishing to enter high education in his country,” Saakashvili added,

"I would like to stress that it is not they [minorities] who should be held responsible for not knowing Georgian. They are begging us to teach them the language. This is happening because we [the authorities] are poorly organized" (Vashakidze, 2008).

In addition to this, a simplified Georgian language examination was offered for those who were applying to Russian-language faculties. However, students still found them quite difficult (Crisis Group, 2006: 26).

The overall statistics of ethnic minority students’ enrollment in higher educational institutions have improved as a result of these changes (Amirejibi-Mullen, 2011). However, a vast majority of them graduated from Russian faculties, and this hampered their employment opportunities after graduating. Having bleak employment

prospects upon graduation fostered ethnic minority students to study abroad, including their ‘kin-states’ – Azerbaijan and Armenia. This decision was also encouraged by scholarship scheme provided by Baku and Yerevan for ethnic minority students in Georgia (Interview with Kerimova, 11 November, 2014).

Table 4.3: The number of enrolled minority students at state universities after the introduction of the quota system in 2010

Year	Number of Quota Places	Number of Enrolled	% of the Quota used
2010	2602	301	11.56%
2011	2100	431	20.52%
2012	2242	584	26.04%
2013	3900	928	23.79%

Source: Tabatadze et al. (2014)

In 2010, the government further introduced ‘quota system’ to improve access to higher education among its minority population. The quota system reserved 5% of university places for Armenian and 5% for Azerbaijani speakers, who would sit the entrance examination in their native language (CRI(2010)17). During the same year, the government started offering graduates of minority-language schools a year of intensive Georgian language course at universities. As is shown in Table 4.3, the introduction of the quota system proved to be a positive measure that increased the number of ethnic minority applicants, as well as the number of ethnic minority students enrolled at state universities (see Table 4.3).

AE.2 – Introduction bilingual education

The introduction of bilingual/multilingual education in Georgia presupposes establishing standards, designing the methods, and improvement of the legislation, which experts describe as ‘disorganized’ (Tabatadze et al., 2014). As has been stated earlier, the law on education ensures education in minority languages, while making it obligatory to teach social sciences in Georgian from the academic year 2010-2011. In 2008, the government undertook policy reform concerning multilingual education

with the support of international experts seconded by the OSCE High Commissioner on National Minorities (HCNM). As a consequence, Ministry of Education and Science (MES) approved *Multilingual Education Support Programme* on August 20, 2010.

Building on the positive experience and results that were achieved with twelve pilot schools implemented within the scope of HCNM's policies, MES extended the scheme to 40 minority schools in 2009 with the support of the United Nations Association of Georgia, within the USAID and multilingual education programs.³² A joint working group of specialist on bilingual education from the Latvian Language Agency and the Center for Civil Integration and Inter-Ethnic Relations (CCIIR) has been established with education experts from Georgia. Within the framework of OSCE's initiative on multilingual education, this working group of experts has elaborated programmes and materials for the training of bilingual education (MFA/RL, 2014b). These reforms were carried out in parallel with the Georgia Education Programme and the president's new initiative to support the Georgian Language for Future Success in the spring of 2011 (de Courten, 2013).

On December 15, 2010, amendments were made to the Law on General Education. According to the amended legislation, multilingual education was defined as 'education, which aims to develop a pupil's deepening linguistic competence and understanding in a variety of languages. In 2012, under the initiative of the Ministry of Education and Science, the standard for bilingual teachers was established (TC/PDoG (2011)).

In 2010, the Minister of Education and Science approved the Multilingual Education Support Program (MES). Further in 2012, the standard for bilingual teachers was

³² United Nations Association of Georgia provided these schools supportive materials such as TVs, DVD-players and Georgian fiction and animated films. Monitoring results of the implementation of the National Concept and Action Plan on Tolerance and Civil Integration, 2010 – 2011 Tolerance Centre. (2010) Monitoring results of the implementation of the National Concept and Action Plan on Tolerance and Civil Integration. Tbilisi: Council of National Minorities under the auspices of the Public Defender of Georgia.

established. The process involved MES's multilingual education experts, as well as experts funded by the OSCE High Commissioner's Office on Minority Issues, Marina Gurbo and Ligita Grigule. Within the scope of the programme, MES approved the books to be used in multilingual education. During the 2009-2010 academic year, within the "textbooks for the non-Georgian language sector pupils, improvement of accessibility sub-program," MES distributed bilingual history and geography books free of charge for pupils of the 7th, 8th, 10th, 11th and 12th classes (Tabatadze et.al., 2014).

Concerns of minority nationals that their languages are not given adequate attention found resonance in the gradual evolution of the HCNM's focus from promoting learning of Georgian language to promoting multilingual education reform in Georgia. The HCNM has effectively encouraged the Georgian government and minorities alike to facilitate and attain multilingualism in conformity with *The Hague Recommendations Regarding the Education Rights of National Minorities* 1996 (de Courten, 2013: 333). The Recommendations were based on positive experience previously gained in the 1990s in the Baltic States. Within the scope of this project, HCNM has worked with twelve pilot schools to implement multilingual education in cooperation with the Swiss NGO 'Cimera' in 2006-2008.

The initiatives by the Ministry of Education and Science of Georgia are described as a "greater and greater understanding of the usefulness of the work that we [HCNM] are doing" (HCNM, 2013). HCNM Knut Vollebaek described the process as follows:

"What we try is to make this [programmes conducted by HCNM] - a government's policy. We would like to have them involved from the beginning. That is why, for instance, we offer experts to the ministry of education. We don't do it for them. We offer them some assistance, but imbedded in the ministry (HCNM, 2013)."

Despite all the positive steps taken, multilingual education program falls short of delivering positive results and is widely criticized within the country (Interview with Chopliani, 26 November, 2014). In their assessment of the multilingual education, (Tabatadze et al., 2014) pointed to (a) discontinuity of the reform, where after initial launch in 2009, the reform completely discontinued in 2011, and almost the entire burden of reform shifted to bilingual textbooks; (b) deficit of qualified personnel and (c) poor quality of bilingual textbooks introduced for grades 1-6 in the 2012-2013 academic year.

Improving Teaching of Georgian (TG)

TG.1 – Teaching of Georgian in general education institutional establishments

For the purpose of improving the teaching of Georgian (TG) as a second language in general education, under the *National Concept*, the MES has launched several programs in the period between 2009 and 2013. Among these were "Teach Georgian as a Second Language," "Georgian Language for Future Success" and Exchange and Befriending programmes.

Within the scope of *Teach Georgian as a Second Language* programme, the MES has assigned qualified teachers of Georgian language and literature to the non-Georgian language schools in the regions of Samtskhe-Javakheti, Kvemo Kartli and Kakheti. According to the information provided by the Office of the State Minister of Georgia for Reconciliation and Civic Equality, 75 teachers were employed within the scope of the program. 1997 pupils, 715 teachers, and 566 community representatives are involved in these Georgian language groups (Tabatadze et al., 2014). Under Exchange and Befriending programs, Armenian and Azerbaijani schools established partnerships with Georgian schools in different regions. 30 trainee-teachers found

partners in different schools in various parts of Georgia (Tbilisi, Gori, Rustavi, Sagaredjo, Chaqvi Zestaphoni, Khashuri and others) (Tabatadze et al., 2014).

Under the banner of *Georgian Language for Future Success* programme, the MES prepared practical training courses for non-Georgian language teachers, Georgian-speaking graduates were sent to help local non-Georgian language teacher to conduct lessons in two languages, and textbooks were developed and published for preschool and primary levels. From 2011 – 2012, 340 teachers were trained in the 90 contact hour Georgian language courses, 540 Bachelor degree graduates sent to the regions of Samtskhe-Javakheti and Kakheti, and from 2011-2013 20 000 I-IX grade textbooks were published and distributed based on requests from schools for preschool and primary levels. The “Georgian as a second language” books were distributed free of charge, to all non-Georgian language pupils in classes I-IV. While the number of pupils amounted to 35 874, there were 75 895 units of textbooks. During the 2009-2010 academic years, 6,025 non-Georgian language school 9th graders were provided with the history of Georgia, geography and civic education textbooks (Tabatadze et al., 2014).

Also notable were several project-based programmes launched by HCNM. First, HCNM launched the *State Programme for ensuring the full functioning of the State Language of Georgia* to train state employees from ethnic minority backgrounds in the official language. Some 700 civil servants, ranging from high-level administrative professionals to school teachers took part in the project, between 2002 and 2007, with approximately 400 graduating (de Courten, 2013).

In 2004, HCNM created ‘Language House’ to provide Georgian language courses to adults of ethnic minority descent. In 2006, the Ministry of Education and Science also launched a programme with the financial support of the OSCE HCNM at the

Language Houses in Javakheti and Kvemo Kartli, under which ethnic minority students could participate in preparatory courses for the Unified National Examinations free of charge (Mekhuzla and Roche, 2009b). The following year, the OSCE HCNM passed financial responsibility for the Language Houses in Javakheti to the Ministry of Education and Science. These language courses resumed in November 2007 under the ministry's responsibility as planned. After being taken up by the government, the project fell into decay and was further pursued in 2011 within the context of a wider government policy to promote the learning of the state language.

Also noteworthy is that MES decided to support "Argonauti" project that was initiated by the HCNM and supported by other international donors, such as Open Society Foundation, Olof Palme International Foundation (argonauti.ge) and the UN (HCNM, 2013). The project sought to integrate non-Georgian youth in Georgian society as well as to destroy existing stereotypes, by among other things, giving them the opportunity to learn Georgian language while living with Georgian host families (argonauti.ge).

The problem in this sphere remains qualification of Georgian language teachers. In their assessment Tabatadze et al. (2014: 67) report, in the period between 2011 and 2013, 340 Georgian language teachers could not speak the Georgian language properly. On the other hand, 'Bachelor graduate' who were sent to assist teachers in the regions were not qualified to teach or instruct the local teachers, due to their different training background (professional qualifications). The rate of such unmatched qualifications is 38%. Textbooks, on the other hand, do not reflect the ethnic diversity of Georgia.

TG.2 – Teaching of Georgian in preschool education

The problems inherent in the general education system are also present at the pre-school educational level. However, unlike in general education, the problem of

availability of pre-school education is more severe. What is more, a pre-school educational curriculum developed by the MES, in collaboration with UNICEF, is not available in minority languages (Tabatadze et al., 2014: 39-42).

Despite these shortcomings, there were a few initiatives, launched by externally funded NGOs, such as European Centre for Minority Issues (ECMI), in collaboration with local NGOs, such as Javakheti Citizens' Forum, for teaching the Georgian language to children at Armenian-language kindergarten schools. From 2005-2007, four projects were implemented: two in Akhalkalaki and two in Ninotsminda districts. From 2008 to 2010, this project was financed by the municipal authorities (*gamgeoba*) of Akhalkalaki district in all kindergartens of Akhalkalaki (Tabatadze et al., 2014).

Since 2007 several non-governmental organizations have been working on early childhood care and education programs in close cooperation with the Ministry of Education. As reported by UNESCO (2015: 2), among them are: "UNICEF Georgia", "Portage Georgia"; "Children of Georgia"; "First Step Georgia", "Save the Children"; "Civitas Georgica"; "World Vision" and "Every Child".

These institutions organize training for tutors' professional development, establish alternative preschool education centres (these centres provide a 5-hour service for five year old children in the villages where kindergartens are not available) and work on development and introduction of early childhood programs (UNESCO, 2015).

Approved in 2009, with the support of the United Nations Children's Fund, MES implemented the project *Supporting Georgian Language Learning in Ethnic Minorities at Preschool Education Level* between 2011 and 2012. The goal of the program was to give a good educational foundation for children in regions compactly settled by minority groups and to improve their knowledge of Georgian language

(UNESCO, 2015). Within the scope of the programme, MES developed learning principles of Georgian as a second language at an early age, and the teachers of five pivot preschool institutions were trained.

Improving Teaching in Minority Languages (TM)

The teaching of and in minority languages remains most problematic in terms of curriculum and standard setting. In 2006-2007, in collaboration with OSCE HCNM, MES developed a curriculum project for teaching Armenian and Azerbaijani as native language. However, curriculum projects that were developed have not been approved, and the work in the creation of new textbooks and the implementation of the curriculum has ceased. The work in this domain has not been revived so far. Hence, these items have not been included in the list of the Law on General Education. The absence of related textbooks and educational curriculum makes minority schools heavily depended on the curriculum of their kin-states: Armenia and Azerbaijan. There is no standard for the native-language teachers either. The low quality of native language teaching also affects the learning of other subjects, including Georgian as a second language (Tabatadze et al., 2014).

Comparative Conclusion: Compliance with recommendations on linguistic rights

As has been stated in Chapter II of this thesis, compliance is treated as a matter of degree. Compliance of Georgian government with IO recommendations on linguistic rights is a good example in case. The majority of reforms were introduced under Saakashvili – from 2005 to 2010, encompassing changes *providing equal access to higher education* and the *introduction of bilingual education* provisions. While the government has managed to increase the number of enrolled minority students at state universities after 2010, there is still space for improvement: only 23.79% of the quota

was used in 2013, for instance. Multilingual education reform was less successful and has completely discontinued by 2011, shifting the burden to bilingual textbooks. Inadequate quality of educational material (including unqualified staff) and the shortage of financing seem to be the two biggest impediments to complying with recommendations in full. The most problematic ‘issue area’ seems to be *improving teaching in minority languages*. While in two previous ‘issue areas’ we observe changes on legislative and policy levels, the process of improving teaching in minority languages has stalled at the level of curriculum and standard setting. Table 4.3 summarizes post-accession compliance with IO recommendations regarding linguistic rights.

Using process tracing revealed the attempts of the government to react to deficiencies of introduced changes in the first two areas – such as UNE and its discriminatory effects vis-à-vis students of ethnic minority background. Using process tracing also enabled to shed light on mechanisms in place: the government actively engages with local NGOs and IOs on educational projects at different stages. Sharing of expertise takes place at the level of IOs, as well as independent experts.

Table 4.4: Post-accession compliance with IO recommendations regarding linguistic rights

		<i>Full Compliance</i>	<i>Partial Compliance</i>	<i>No Compliance</i>
<i>Access to Education</i>	Provide equal access	X		
	Introduction of the new system of bilingual education		X	
<i>Training of Georgian language</i>	Introduction and elaboration of the policies and action plan on teaching Georgian		X	
<i>Training in minority languages</i>	Introduction and elaboration of the policies and action plan on teaching in minority languages			X

2 Religious Rights: Recommendations, Challenges, Compliance

2.1 International recommendations

Fundamental aspects of protecting religious rights of minorities living in Georgia covered by the Council of Europe were (1) the legal status for minority religious denominations vis-à-vis Georgian Orthodox Church (GOC); (2) restitution of religious properties confiscated during the Soviet period (3); and tackling religious discrimination, including discrimination in educational establishments. Table 4.5 summarizes the key recommendations and the resulting requirements for formal and behavioural compliance regarding religious rights.

Table 4.5: Indicators of formal and behavioural compliance with Religious Rights

	Formal compliance	Behavioural compliance
Legal Status	a) Adoption of a specific law on religion that would offer <i>proper and equal</i> legal status and protection to all faiths and denominations in the country (CRI(2010)17) b) Adoption of legislation allowing registration of religious organisation c) Establishment of a specialized body that could effectively and independently monitor the situation regarding the issues of human rights, racism and intolerance.	a) Elimination of obstacles to acquire and build places of worship (CRI(2010)17) c) Establishment of mechanisms to punish (hear, process complaints) religious based discrimination/attacks/etc. c) Elimination of obstacles to register as a religious organizations/entities of public law (this relates to point a and 2 as this right should enable religious organizations to acquire property for religious purposes) (CRI(2010)17)
Restitution of Religious Properties	Adoption of regulations concerning the restitution: resolve the outstanding issues regarding the return, to their respective denominations, of historic religious properties confiscated during the Soviet era (PACE (2011)1801)	Physical return/handover of religious properties to respective religious denominations

Secularising Education		a) Elimination of religious symbols in classrooms and well as the practice of forceful imposition of religious practices on members of religious minorities. b) Eradication of all textbooks that do not reflect the idea of interfaith tolerance. c) Preventing the practices of forceful indoctrination of Orthodox Christianity in public schools
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2.2 The nature of challenge

The *Constitutional Agreement* signed between the government and the GOC in 2002 is the source of legal inequality of minority religions vis-à-vis GOC. Among other things, the GOC was granted a privileged position in (a) legal status and (b) rehabilitation in rights over the vast majority of properties confiscated during the communist regime. The Constitutional Agreement was also elevated to the high legal status, which prevailed not only over Georgian laws but also international agreements signed or ratified by the government (see Article 6.2.³³ of the Constitution). This section will, first, elaborate on the aspects of Constitutional Agreement that led to indirect discrimination of minority religions (Vischioni, 2006: 11). Afterwards, issue-specific explanatory factors will be elaborated on.

Legal Status

The *Constitutional Agreement* granted GOC special status of ‘entity of the public law’ (Article 1.3. of the Constitutional Agreement), making it the only officially recognized religious denomination in Georgia. The status of other religions was not established by the Georgian legislation, which put them in a disadvantageous position. At the time, Article 1509.1 of the Civil Code of Georgia stated that non-state organizations founded to pursue public goals – such as religious organizations – shall be considered as *legal entities under public law*. Due to this provision, religious

³³the Constitution reads "An international treaty or agreement of Georgia unless it contradicts the Constitution of Georgia, the Constitutional Agreement, shall take precedence over domestic normative acts."

organizations were not entitled to register as private law legal persons (such as associations or foundations) (Lomtadze et al., 2014). This status made it impossible for religious minorities, among other things, to acquire state property through the procedure of direct sale, claim rights to property (churches, mosques), rent office space, construct buildings of worship, teach their religious doctrines, and import-export religious literature. However, the law did not determine procedures of registering religious organizations either. Given this gap, religious organizations were not entitled to register as legal entities under the public law either (Lomtadze et al., 2014). Notwithstanding this fact, the Administrative Violations Code stipulated a penalty for any unregistered religious groups.

Restitution of properties and financial compensation

Article 11 of the Constitutional Agreement recognized material and moral damages inflicted to the [Georgian Orthodox] Church in XIX-XX centuries and delegated responsibility to the government of Georgia for partial compensation of material damages inflicted during Soviet rule (Lomtadze et al., 2014). In the Resolution N183³⁴, the state has first, “recognize[ed] the ownership of the Church on the Orthodox churches, monasteries (functioning and non-functioning), their ruins, as well as land plots on which they are located, that are on the territory of Georgia” and which were confiscated during the Soviet times (Constitutional Agreement, 2002). Secondly, the government undertook the commission of funding GOC on an annual basis, as is depicted in the Graph 4.1.

While property rights of GOC have mostly been restored, restitution of property confiscated during the communist regimes remained one of the main concerns for other religious denominations (Papuashvili, 2008). Additionally, among the buildings

³⁴, The resolution was adopted by the Council of Ministers of the Soviet Socialist Republic of Georgia on 12 April 1990

handed over to the Patriarchate were those that were historically owned by other religious organizations existing in Georgia.³⁵ Yet, some other religious buildings, confiscated from religious minorities during the Soviet period were owned by the state or private parties (such as theaters, gyms, dance halls, library, etc.) and remained unreturned as well (Lomtadze et al., 2014: 26).

Domestic adjustment costs

Thus while the status of the GOC's was enshrined in the Constitution and the Constitutional Agreement, and its properties restored, the state failed to provide its religious minorities equal conditions for the exercise of their religious activities (ACFC/OP/I(2009)001). In its 2002 report, the CoE suggested, "to avoid any form of discrimination...it would at least be advisable to have agreements of the same kind with other denominations" (CRI(2002)2). Compliance with international recommendations requires superseding what is widely referred to as the 'most powerful political party in the country' (MRGI, 2008). Below, GOC's role as an organized opposition in Georgia's politics will be elaborated on. Afterwards, the section lays out associated economic and political costs of complying with IO recommendations in the area of religious rights.

GOC's actorness formation

GOC's role and influence in politics increased throughout time. During the early years of independence, Zviad Gamsakhurdia – Georgia's first president, significantly limited GOC's role in politics. While 'Georgian nation' was defined in terms of a symbiosis of ethnic decent and faith (Gavashelishvili, 2012), for Gamsakhurdia it was an instrumental tool to fulfill his political objectives (Gavashelishvili, 2012).

³⁵ There is no consensus as to what that number is. According to some estimates, GOC has taken control over 40 Armenian Apostolic churches, including 7 in Tbilisi, 5 Catholic churches in various parts of Georgia, and 1 Lutheran church in Asureti village Isakhanyan L. (2014) Report on Georgia's Compliance with the International Covenant on Civil and Political Rights. Tbilisi..

Gamsakhurdia kept the influence of GOC at a minimum, due to his suspicion of alleged links between the Church and the Committee for State Security (KGB).

The state of "near anarchy" (Nodia, 2010) in the 1990s, marked by inter-ethnic turmoil and struggle of different groups for power, fostered the emergence of GOC as a visible actor on the ideological marketplace (Ladaria, 2012). From 1995 to 1999, the Church and the state acted in accord. The apex of this 'tandem' was signing of the Constitutional Agreement (see above). The population turned to GOC, as trust in state institutions plummeted. During this period, the Church's anti-Western disposition was also in harmony with the state's foreign policy orientation towards Russia (Gavashelishvili, 2012). GOC had an important role in supporting the idea that being Georgian means being Orthodox Christian. The revival of religion and ethnic nationalism went in parallel, as two reinforced each other in rhetoric through historical narrative. Given the domestic circumstance, the Church was the only institution that could ideologically unify the society and provide services throughout the 1990s. With the time, Church also became a shelter for Georgia's dissidents (Interview with Mikeladze, 17 November, 2014).

From 1996 and 2001, GOC's influence was mostly visible in the sphere of education. Article 5 of the *Constitutional Agreement* and Article 18.2 of the Law on Education 1997 provided that all school textbooks must be approved by the Ministry of Education, in consultation with various ministries and the office of the Patriarch. It thus also elevated GOC to a status of a 'veto player' in this regard. The Georgian Orthodox Church actively exercised this right, pushing for revision of several school textbooks (U.S. Commission on International Religious Freedom, 2000)³⁶. The

³⁶ U.S. Commission on Religious Freedoms Report notes, in 2000 there were two cases where pressure from the GOC on the Ministry of Education prevented the use of school textbooks to which the Church objected. The report directly states: "In one case, the office of the Patriarch vetoed the textbook, and the Ministry of Education, therefore, refused to grant the license. In the other, the Ministry b71

Memorandum of Joint Collaboration Commission of the Ministry of Education and Science and the Georgian Apostolic Autocephalous Orthodox Church, signed on January 22, 2005, has further obliged the state to implement joint educational programs and to support educational institutions of the GOC. Through the working of a special Commission that was created as a result of the Memorandum, GOC also gained the opportunity to participate in creation of the relevant guidebooks and curricula for teaching Orthodox Christianity; identification of those teachers who would teach the above-mentioned subject; and creation of the formal procedure for the selection and appointment of such teachers (HRIDC, 2008).

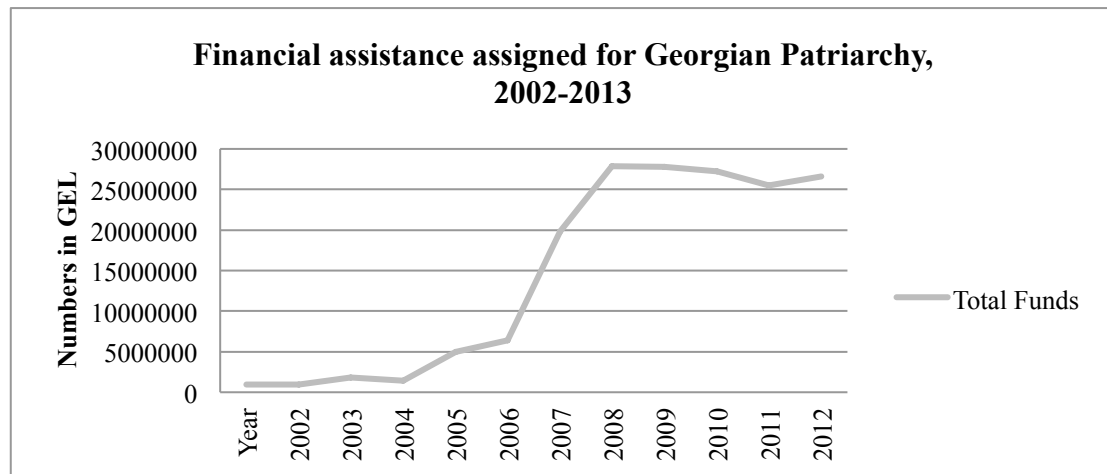
In the aftermath of adoption of the civic concept of nationalism (see Chapter III), Saakashvili's government attempted to restrict GOC's influence in public domain. The government has successfully ripped schools of religious symbols (Interview with Mikeladze, 17 November, 2014). However, this situation changed after 2007 anti-government riots that tarnished government's reputation as the result of the disproportionate use of force against protesters (PACE (2009)11858).

In the aftermath of 2007 riots, the role of GOC in politics has increased. Allegations of human rights violations and what people perceived to be Saakashvili's anti-national disposition led to the rise of anti-government sentiments. This view found wide resonance in media (Gavashelishvili, 2012: 123). Increasing opposition to Saakashvili's policies and his compromised reputation made open confrontations with GOC politically unwise. Consequently, Saakashvili sought rapprochement with the Church to counterbalance the views inherent within the society at the time and restore his reputation (Interview with Mikeladze, 17 November, 2014). This commitment was reflected in increased government spending on GOC. As the Graph 4.1 demonstrates,

Education granted the license, but a committee of concerned Orthodox parents, which the office of the Patriarch publicly acknowledged was its creation, successfully sued the Ministry of Education to rescind the license.”

within the period of six years, from 2007 to 2013, financial assistance provided to GOC increased almost sixfold (5.85 times), amounting to 25 million Georgian Lari (GEL) (Transparency International, 2013).

Graph 4.1: Government’s financial assistance assigned for Georgian Patriarchy, 2002-2013



Source: Transparency International (2013)

Parallel to this, the Church emerged as an important political actor. The Church strengthened its stronghold and became an ideological, as well as 'physical' shelter for opposition groups. Tamta Mikeladze who worked for the *Ministry of Justice* from 2006-2009 and *Security Council of Georgia* in 2009 recited (interview notes, 17 November, 2014), "even the artists, who were scapegoated by Saakashvili as the 'red elite' took shelter in the Church and publicly manifested their allegiance to the Church. They would idolize the Patriarch". Religion, once again, started defining the contours of public discourse. The Church became very active at expressing its opposition towards the policies that it considered to be against 'Georgian values' and 'morals,' presenting itself as a protector of them. The Church emerged as an important opinion-shaping actor, able to mobilize the population against governmental policies. To date, the Church is the only institution in Georgia that managed to maintain high public trust among the population, with the approval rate of over 80% (International

Republican Institute, 2012; International Republican Institute, 2013; International Republican Institute, 2003; International Republican Institute, 2004; International Republican Institute, 2005; International Republican Institute, 2006; International Republican Institute, 2011; International Republican Institute, 2007; International Republican Institute, 2008; International Republican Institute, 2009; International Republican Institute, 2010).

In 2006, GOC stated it was necessary to adopt the law on religion to meet the needs of religious groups, provided that they are not granted “the same” – effectively, equal – status with that of the GOC (Vischioni, 2006: 14). However, as will be described in the following sections, the GOC has protested every time such an attempt was made. Thus, any attempts to grant similar rights to minority religions and return the properties that were confiscated during Soviet period were to face GOC’s active opposition. Given the GOC’s position towards these policies, these recommendations could be said to be politically costly for the government to embark on.

Salience of norms

According to the last 2002 census, 83.9% of Georgia’s population belongs to the Orthodox Church, 9.9% to Islam and 3.9% to Armenian Apostolic Church (AAC). Other smaller religious groups include Catholics, Jewish, Lutherans and Yezids. They account for less than 1% each. These religions have been practiced for a long time in Georgia and are, therefore, widely regarded as so-called traditional faiths. The new denomination that gained prominence in the post-Soviet period – including, Baptists, Seventh-Day Adventists, Pentecostals, Jehovah's Witnesses, the New Apostolic Church, the Assembly of God, Baha'is and Hare Krishnas – are widely referred to as "non-traditionalin

The issue of religion has always been an important part of Georgian identity. During the early years of struggle for independence from the Soviet Union, Orthodox heritage and the reference for a messianic aim of the nation became an essential part in the formation of national self-awareness. Gradually, GOC became the institutional embodiment of this new form of nationalist ideology. GOC reinforced the idea that being Georgian is to be Orthodox Christian, while at the same time enhanced its role in Georgian politics (Sulkhanishvili, 2012), as was stated earlier.

Traditionalist strand of thinking remained extremely prevalent in Georgia between 1996 and 2001 and became closely intertwined with notions of Georgian patriotism and the supremacy of the Georgian Orthodox Church. According to a public opinion survey carried out by Theodore Hanf and Ghia Nodia in 1997 with 2.000 respondents, 81 percent of the sample agreed with the statement: “I am convinced that my own religion is the only true religion” and 65 per cent agreed that ‘Faith and religious values should determine all aspects of state and society’ (in Wheatley, 2005: 148). Importance of religious beliefs in making decisions in daily lives was also supported by more recent opinion poll conducted by International Republican Institute (2011)³⁷. Nevertheless, mobilization of population against governmental policies (related to religious issues) is generally incentivized by the Church officials. Even though conservative strand of the society empowers the Church vis-à-vis the government as a potential base for opposition against the government, it does not challenge it directly. Hence it is not politically costly *per se*. GOC’s leadership and incentivization is essential for active mobilization of the population (Interview with Mikeladze, 17

³⁷ 84% of the respondents (in the last public opinion poll conducted by *The International Republican Institute (IRI)* conducted October 27 – November 11, 2011) replied that their own religious beliefs were important in making decisions in daily life (where 36% of these respondents said that their religious beliefs were ‘very important’ in making decisions in daily life).

November, 2014). Unlike pro-western strand of the society, conservative strand of Georgian society could not organize into associations (Wheatley, 2005: 144).

Historically, Georgian society has been tolerant towards ‘traditional faiths’ – Orthodox Christian, Muslim, and Jewish (U.S. Commission on International Religious Freedom, 2006), and “negative or very negative” towards ‘non-traditional faiths’, such as Jehovah’s Witnesses, Baptists, Evangelical Christians, and others (Vischioni, 2006). Public opinion poll conducted by International Republican Institute (2007) showed that 39% of respondents believed that Jehovah's Witnesses, as a religious group, created problems for Georgian society.³⁸

Hence, norms protecting the rights of ‘non-traditional’ religious minorities are less salient than the norms protecting the ‘traditional faiths’. However, the ‘historical tolerance’ of Georgians towards ‘traditional faiths’ should not be understood as them being perceived as part of Georgian identity. In 2003, Georgian national voter study has shown (International Republican Institute, 2003), 55% of the respondents agreed with the statement that minority groups had to give up parts of their religion or culture which may be in conflict with Georgian tradition, in order to be fully accepted members of Georgian society (with only 28% of disapproval rate). To date, Georgian Orthodoxy remains an important part of Georgian identity. During the same year, 67% of respondents replied they perceived a link between religious minorities and problems that the state was facing, agreeing with the statement “if there were to be more people belonging to religious minorities we would have a problem” (U.S. Commission on International Religious Freedom, 2002).

In line with the *Hypotheses 2 & 3* we would expect recommendations regarding the legal status of minority religions and restitution of religious properties less likely to be

³⁸ Importantly, another 37% of the respondents expressed the opinion that *none* of the religious groups or ethnic minorities created problems for Georgian society.

implemented after 2007 - the year when GOC emerged as an important political actor, given that a) the norms are not salient among the population (H2) and b) that GOC became an important opposition (and also, since it operated as a ‘veto player’ (H3) in certain aspects of educational policies outlined above).

Table 4.6: Key explanatory factors with regard to religious rights, and the resulting expectations for compliance

Religious Rights	H2: Domestic salience of norms	H3: Domestic adjustment costs	
		Economic and/or institutional costs	Domestic opposition/veto players
Legal Status	Low	Low	Yes
<i>Implementation</i>	<i>Less likely</i>	<i>More likely</i>	<i>Less likely</i>
Restitution of religious properties	Low	Low	Yes
<i>Implementation</i>	<i>Less likely</i>	<i>More likely</i>	<i>Less likely</i>
Secularising Education	Low (not negative)	Low	Yes
<i>Implementation</i>	<i>Less likely</i>	<i>More likely</i>	<i>Less likely</i>

2.3 Post-accession compliance

Formal Compliance: Legislative and policy changes

Legal Status

Georgian government has taken several steps to improve the rights of religious minorities. In April 2004, the Parliament amended the *Civil Code* enabling minority religious organizations to register as “non-profit private-law corporations”, at the same time removing the article from the *Administrative Violations Code* fining unregistered religions.³⁹ Thus, religious organizations were allowed to register as private law legal persons. However, this measure was seen as insufficient by the

³⁹ US/BDHRL (2005) notes, “according to the legislation, religious groups that perform humanitarian services could also register as charitable organizations, although religious and other organizations may likewise perform humanitarian services and religious rituals without registration”.

majority of religious denominations (Papuashvili, 2008). While ‘new religious groups’ praised the amendment, representatives of more ‘traditional religions’ continued to push for special legal status that would set them apart from non-traditional religions (U.S. Commission on International Religious Freedom, 2005). Among other complaints were that the new amendment did not make provisions for registering property that religious groups already owned under personal titles.

To increase interreligious and intercultural dialogue Council of Religions was established in 2005 under the auspices of the Public Defender. Civil Code was further amended on 5th July 2011. The newly incorporated Clause 1 of the Article 1509¹ allowed religious organizations to register as legal entities of public law. Thus, other religious organizations were granted opportunity to stand on the equal footing with the Georgian Orthodox Church from the perspective of legal status (Lomtadze et al., 2014), even though the new legislation did not alter the privileged (special) status of the GOC.

The 2011 legislation triggered two days of Georgian Orthodox Church-led protest marches. The powerful Georgian Orthodox Church strongly criticized the country's pro-Western government after a law was passed allowing minority faiths to claim legal status. The Georgian Patriarch issued a statement saying that the legislation "contradicts the interests of the Church and of the country". A written declaration of the Holy Synod, the Georgian Church's main decision-making body, released after its meeting on July 11, reiterated the Patriarchate's dissatisfaction that the legislative amendment was passed hastily without proper consultations with the Georgian Orthodox Church (Civil.ge, 2011). MPs, have nevertheless reassured the Synod that the law was not granting minority religions the rights, similar to those of the Georgian Orthodox Church (Civil.ge, 2011). This, in effect, remains true to date.

The GOC retains its special status under the constitution of Georgia. It is the only religious establishment in the country that has signed a Constitutional Agreement with the government. GOC is still favored in the matter of restitution of disputed properties and remains exempt from taxes (US/BDHRL, 2013). Initial drafts limited the freedoms to five groups only - the Armenian Apostolic Church, the Evangelical Baptist Church of Georgia, the Roman Catholic Church, and the Jewish and Muslim communities of Georgia. On its website, Embassy of Georgia to the United Kingdom of Great Britain and Northern Ireland (2011) noted,

The Baptist Archbishop in Georgia, Malkhaz Songulashvili, reports that following the release of the first draft, Bishop Rusudan Gotziridze (Baptist), lobbied the parliament and requested that the legislation should be extended to all religious groups in Georgia. The draft was subsequently amended to meet this request. A press release from the Embassy of Georgia in London specifically refers to Evangelicals being granted the same freedoms (Embassy of Georgia to the United Kingdom of Great Britain and Northern Ireland [Embassy of Georgia], 2011).

The new legislation did not alter the privileged (special) status of the GOC, but allowed minority religious confessions to register as entities of public law (religious associations), whereas its members were allowed to "conscientiously object to reserve military service." The law also allowed clergy of minority faiths to visit inmates in prison (previously such a right was held by GOC only).

Secularizing Education

To address the issue of religious indoctrination in schools, Georgian government adopted the *Law on General Education* sanctioning religious indoctrination, proselytizing, forced assimilation and preaching any religion on school territory in April 2005.

Restitution of Religious Properties

Under Margvelashvili, the government adopted Resolution N 117 on Approval of the Procedure for Implementation of Certain Measures related to the Partial Compensation of Damages Inflicted during the Soviet Totalitarian Regime to the Religious Organizations Present in Georgia, 27 January 2014.

On January 27, 2014 PM Irakli Garibashvili made the announcement, saying that these four religious groups will become eligible to state funding in a form of “compensation” for “repressions” that these groups were exposed to during the Soviet period. Details of funding scheme are not yet clear, as MP Garibashvili stated “funding will be allocated from the state budget and proportionally distributed among these [four] religious groups” (Civil.ge, 2014)⁴⁰. The compensation will amount to GEL 4.5 million (about USD 2.53 million) and will be distributed among the Diocese of the Armenian Apostolic Church in Georgia, Roman Catholic Church in Georgia, Muslim and Jewish religious groups. PM Garibashvili also said that funding for Lutherans would be considered at the “next stage”.

According to the Government of Georgia February 19, 2014 #177 Resolution, LEPL State Agency on Religious Affairs was named as the structure responsible for issuing the sums. According to the Government’s March 13, 2014 (#437) Order, the state reserve fund issued 3.5 million GEL for four religious organizations (Tabula.ge, 2014).

Local organisations working on ethnic and religious minority issues called the government to provide the funding to three more religious groups – Evangelical Lutheran Church of Georgia; Evangelical Baptists and Yezidis. State Minister for

⁴⁰ On 27 January, 2014 the government adopted the Resolution N 117 On Approval of the Procedure for Implementation of Certain Measures related to the Partial Compensation of Damages Inflicted during the Soviet Totalitarian Regime to the Religious Organizations Present in Georgia. 180

Reconciliation and Civic Equality, Paata Zakareishvili, said that discussions would continue about adding other religious groups too (Civil.ge, 2014).

The new government, under Margvelashvili, adopted the Resolution N 177 on the Establishment of the Legal Entity of Public Law – State Agency of Religious Affairs and on Approval of its Statute, (in Georgian), 19 February, 2014. The agency was created to coordinate and implement country's policy on religious issues. The State Minister for Reconciliation and Civil Equality Paata Zakareishvili in one of his interviews said the “agency would function to adequately spend money selected from the state budget in order to compensate the loss of different religious groups during the Soviet period” (Agenda.ge, 2014). The Agency is also envisioned to be “interested in education”, even though the Minister did not specify what that means (Agenda.ge, 2014).

State Agency of Religious Affairs is a consultative body of the Government and the Prime Minister that oversees the area of religious affairs. Its competences include analysis of the situation in the sphere of religions, elaboration of draft legal acts and recommendations, drafting recommendations for implementation of the goals set forth in the Constitutional Agreement, as well as adoption of recommendations on construction of religions buildings, education in the sphere of religion, mediation in case of conflict between the religious organizations, fostering the tolerance, etc. (Lomtadze et al., 2014).

Behavioural compliance: implementation of legal and policy changes

‘Registration as religious organizations’

By the end of 2013, the government had registered 22 minority religious groups as legal entities under public law. As reported by the U.S. Commission on International

Religious Freedom in 2013, among those were three branches of the Catholic Church, four Muslim groups, Lutherans, Yezidis, two Jewish groups, the AAC, and Evangelical Baptists. The report also states,

The Seventh-day Adventists and Jehovah's Witnesses preferred to maintain their registration as NGOs rather than religious organizations. Since the Evangelical Baptist Church was registered as a legal entity in 2012, it has been able to register its new property. The status of property built before 2012, however, remains in dispute (U.S. Commission on International Religious Freedom, 2013).

‘Equal legal status and protection’

Articles that contain the motive of intolerance as the crime element include Article 109 (1) /Article 109.2(d) [Murder on the ground of racial, religious, national or ethnic intolerance]; Article 117.1(1) /Article 117.5(d) [Intentional Damage to Health on the ground of racial, religious, national or ethnic intolerance], Article 126.2(g) [Torture/violence on the ground of racial, religious, national or ethnic intolerance], Article 142.1/Article 142 [Violation of Equality of Humans due to their race, colour of skin, language, sex, religious belonging or profession, political or other opinion, national, ethnic, social, rank or public association belonging, origin, place of residence or material condition], Article 144.1.2(f) [torture with violation of human equality], Article 144.2 (f) [Degrading or inhuman treatment with violation of human equality], Article 155 [Illegal Interference into Performing Religious Rite] Article 156 [Persecution for speech, opinion, conscience, religious denomination, faith or creed or political, public, professional, religious or scientific pursuits] Article 166 [Obstruction to Creation of Political, Public or Religious Unions or Interference in Their Activities]; Article 258.3(b) [Defilement of a corpse or burial place, as well as pull-down or damaging of a burial monument due to racial, religious, national or

ethnic intolerance]. On 27 March 2012, Article 53.3¹ was added to the Criminal Code and commission of crime on the ground of intolerance, including religious intolerance was declared as aggravating circumstance for all the crimes, which do not contain the motive of intolerance as the crime element.

Statistical data on initiation and termination of criminal prosecution is processed since 2012. However, courts do not collect the statistics in respect of the Article 53.3¹. In its comprehensive study on the adequacy of the Criminal Code to the task of protection of persons from persecution on religious grounds from 2012 to the first quarter of 2014, the *Tolerance and Diversity Institute* (TDI) reported (Lomtatidze et al., 2014), (a) investigating bodies are criticized for failing to launch investigations under appropriate legal articles that punish persecution on the grounds of religious intolerance, interruption of religious rites, and violation of equal rights principles; (b) investigation process tends to be drawn out or reach no legal outcomes (See Table 4.7).

There is evidence of increased incidence of legal and religious freedom violations against Muslims and Jehovah's Witnesses since 2012. The data presented by TDI (Lomtatidze et al., 2014) on violation of rights of Muslims and Jehovah's Witnesses from 2012-2014 showed that there were 11 instances of legal violations against Jehovah's Witnesses, 46 instances in 2013, and 25 instances during just the first three months of 2014 (June- March)⁴¹. Among the 46 instances that took place in 2013, 20 instances were reported on the grounds of physical violence, 22 instances on the grounds of verbal abuse. Victims reported each of the 46 violations that took place in 2013, except one, to the appropriate law enforcement and human rights agencies: the police, local prosecutor's office, central prosecutor's office, and the public defender's

⁴¹ Reported violations include instances of destruction of Jehovah's Witness cult buildings – Kingdom Halls, verbal and physical violence against Jehovah's Witnesses, threats, destruction of religious literature, and assaults.

office.⁴² Of these violations 10 investigations were initiated under articles from the Criminal Code, while all the others in due to the absence of sufficient evidence (according to the Criminal Law Procedural Code's Article 105.a).

Among the 10 cases that were initiated under the articles from the Criminal Code, two cases were investigated under Article 156 (persecution) of the Criminal Code of Georgia and one – under Article 155 (illegal obstruction of observation of religious rite). The remaining cases were launched for: robbing the Kingdom Hall (Article 177.a and 177.b), opening fire at the Kingdom Hall (Article 187.1), purposefully harming one’s health (Article 118.1), battery (Article 125), and in three cases – damaging building windows.

TDI reports (Lomtatidze et al., 2014) that only three criminal case investigations resulted in a specific legal outcome and only in one case was the defendant accused of an administrative violation in 2013.

Table 4.7: Data on initiation and termination of criminal prosecution

Article of the Criminal Code	Termination of the Investigation of Crimes (Grounds)			Initiation of Prosecution			Termination of Prosecution (per person)			Refusal to Initiate Prosecution (indicating grounds)		
	2012	2013	2014 (3 months)	2012	2013	2014 (3 months)	2012	2013	2014 (3 months)	2012	2013	2014 (3 months)
109.2(d)	0	0	0	0	0	0	0	0	0	0	0	0
117.5(d)	0	0	0	0	0	0	0	0	0	0	0	0
126.2(g)	0	0	0	0	0	0	0	0	0	0	0	0
142	1(105.1(a))	0	0	0	0	0	0	0	0	0	0	0

⁴² Manuchar Tsimintia, the Jehovah’s Witnesses Christian Organization’s lawyer, reported that while many of the reported cases contained signs of criminal code violations, the investigations are not conducted under appropriate articles – according to him, law enforcers frequently avoid using and qualifying crime under the 155th (illegal disruption of observation of religious rites) and 156th (religious persecution) articles of the Criminal Code.

144 ¹ .2(f)	0	0	0	0	8	0	0	0	0	0	0	0
144 ³ .2(f)	0	0	0	0	9	0	0	0	0	0	0	0
258.3(b)	0	0	0	0	0	0	0	0	0	0	0	0
155	1(105.1(a))	1(105.1(f))	1(105.1(a))	0	0	0	0	0	0	0	0	0
156	2(105.1(a))	3(2 cases were terminated under 105.1(a); 1 case was terminated under 105.1(j))	2(105.1(j))	10	4	5	0	2(105.1(a))	0	0	3(105.3 and 168)	2(105.3 and 168)
166	0		0	0	0	0	0	0	0	0	0	0

Source: Lomtadze et al. (2014)

As is shown in the table on data on initiation and termination of criminal prosecution, in cases of religiously motivated crimes, most frequently employed article is not the obstruction of observation of religious rite (Article 155), but persecution (Article 156). However, it is noteworthy, that the crime of persecution may be committed not only on the ground of religious intolerance, but also on other grounds of intolerance and there is no separate statistics for cases of persecution on religious grounds. Therefore, it is impossible to find out the exact number of cases of persecution on religious grounds (Lomtadze et al., 2014).

In the years between 2009 and the first quarter of 2014, general courts of Georgia did not take any single judgment in respect of the crime provided in Article 155 (Illegal obstruction of the observation of religious rites) of the Criminal Code of Georgia (Lomtadze et al., 2014).

Permission of construction of buildings for religious organizations

There are at least two (reported) instances – one in Terjola and the other in Manglisi – where permission for the construction of buildings by religious organizations (not

necessarily for religious purposes) was recalled by the local authorities. In both cases, the decision was preceded by local population's protest against the construction, which are reported to have had been organized by local clergymen (Lomtatidze et al., 2014).

Restitution of religious properties

The government failed to return or maintain religious properties claimed by minority religious groups, which are currently held by government entities (See Table 4.7). Muslim and Jewish groups, as well as the Catholic, Evangelical, Baptist, and Armenian Orthodox Churches, complained about government policies in this regard (U.S. Commission on International Religious Freedom, 2013). GOC is the only religious group with a line item in the government's annual budget, receiving 25 million Lari (\$14.4 million) during 2013.

Since 2012 the issue of restitution of religious properties have moved from a dead point. Between 2012 and 2013⁴³, there were three attempts to create committees to address disputes over ownership of religious properties. Only one of these attempts ended in establishment of an inter-ministry committee to specifically address the disputed Churches in Mughnecoc Surb Gevorg, Surb Mina, and Surb Nshani (See Table 4.7). The work of the committee has been extended twice since then. However, the committee failed to deliver results (Lomtatidze et al., 2014).

There were also attempts to return Church properties through lawsuits. Thus, for instance the Catholic Church appealing to the court to return the Kutaisi Church of Annunciation into its dominion in 2001. Interestingly, GOC registered the church under its name in the public registry on March 6, 2003, one year before the Supreme Court decision on April 27, 2004. Lomtatidze et al. (2014) report that no other

⁴³ In 2004, Orthodox-Catholic committee was formed, which met twice and then stopped functioning altogether.

attempts to regain control over churches were made by the Catholic Church afterwards.

Table 4.8: Data on restitution of religious properties and measures taken in this respect

Minority religions	Number of churches claimed	Number of restored buildings
Armenian Apostolic	6	0
Catholic	5	0
Evangelical-Lutheran	1	0
Muslim	18	0
Jewish	At least 8	1

Source: Lomtadidze et al. (2014)

Comparative conclusion: Compliance with religious rights

For the so-called traditional religious groups, recommendations regarding granting religious minorities legal status were met in full (see Table 4.9). Even though the way courts employ the articles remains a subject of criticism. Neither was the status of these religious denominations equalised to that of GOC – it still enjoyed special status, provided by the Constitutional Agreement. Given these reservations we cannot claim that either the norm salience domestically or opposition of GOC as a veto player was ineffective in this case. To be able to draw this conclusion, the government would have do not.

The analysis of the issue of restitution of religious properties has shown, however, that presence of active opposition in the face of Georgian Orthodox Church (GOC) significantly hampers the process, also because the ownership of the disputed Churches is being actively exercised by GOC itself. Despite various legislative and policy initiatives, in practice among 38 claimed properties, only one has been legally returned – even if the physical handover has not taken place (Lomtadidze et al., 2014).

The most curious case is the issue of ‘secularisation of educational establishments’. The government has successfully addressed the issue in 2004, however, Religious Watchdogs (Interview with Mikeladze, 17 November, 2014) report backsliding of the changes since 2007. While such change cannot be explained by the presence of veto player *per se* – as this variable has been present throughout post-independence years, we need to move one explanatory level up and examine the role of the government, including the changing relationship between the government and the Church.

Table 4.9: Post-accession compliance with IO recommendations regarding religious rights

		Full Compliance	Partial Compliance	No Compliance
Legal Status	Elimination of obstacles to acquire and build places of worship		X	
	Establishment of mechanisms to punish (hear, process complaints) religious based discrimination/attacks/etc	X		
	Elimination of obstacles to register as a religious organizations/entities of public law	X		
	Establishment of a specialized body that could effectively and independently monitor the situation regarding the issues of human rights, racism and intolerance.	X		
Restitution of Religious Properties	Physical return/handover of religious properties to respective religious denominations			X
Secularising Education	Elimination of religious symbols in classrooms and well as the practice of forceful imposition of religious practices on members of religious minorities.			Backsliding
	Eradication of all textbooks that do not reflect the idea of interfaith tolerance.			
	Preventing the practices of forceful indoctrination of Orthodox Christianity in public schools			

To sum up, the most important changes in the sphere of religious rights have been introduced in 2004/5, 2011 and 2014. First, religious organizations were allowed to register as ‘non-profit private-law corporations’. Secondly, Civil Code was amended to allow them to register as organizations register as legal entities of public law.

Thirdly, and respectively, the last government under Margvelashvili approved measures to be taken to compensate damages inflicted upon minority religions during the Soviet regime. Comparing implementation of recommendations across ‘issue areas’ (under religious rights) shows, economic costs of compliance are not deterministic. In this respect, it needs to be explained why those changes were adopted at the time they were. Why backsliding in the area of ‘secularization of education’ took place? And, why restitution of the religious properties remains problematic to date? These questions will be addressed in Section 4 of this chapter.

3 Anti-discrimination provisions: Recommendations, challenges, compliance

3.1 International Recommendations

Upon its accession to the Council of Europe in 1999, Georgia pledged within two years to adopt a law on minorities based on the principles of Recommendation 1201 (1993) (includes principles on general prohibition of discrimination) of the Parliamentary Assembly of the Council of Europe (the recommendation was signed upon the accession). The draft law was ready by the 2001. However, it took in total thirteen years for the Georgian government to adopt a comprehensive law on non-discrimination.

In its first report, ECRI ‘strongly encouraged’ Georgian authorities to enact legislation providing for racist motivation to constitute a general aggravating circumstance applicable to all types of offence, as recommended in paragraph 21 of its General Policy Recommendation No.7 on national legislation to combat racism and racial discrimination (CRI(2002)2). Georgian authorities were further recommended to adopt a comprehensive anti-discrimination law designed to combat discrimination in all areas of life; and secondly, to establish bodies that would

monitor the situation as regards human rights generally or specifically in relation to racism and racial discrimination (CRI(2002)2; CRI(2007)2) ... that would hear, consider and settle complaints and petitions concerning cases of racial discrimination between private parties (ECRI(2010)17). In 2010, ECRI reiterated its recommendations to add provisions to the criminal law prohibiting incitement to racial hatred.

Table 4.10: Indicators of formal and behavioural compliance with anti-discrimination legislation

	<i>Formal compliance</i>	<i>Behavioural compliance</i>
Legal provisions	Adoption of anti-discrimination legislation Introduction of a provision providing for racist motivation to constitute a general aggravating circumstance applicable to all types of offences (CRI(2007)2) Introduction of the principle of ‘shared burden of proof’ ⁴⁴ (CRI(2010)17) The CoE committee report (March 2011) called upon the authorities to ‘step up their efforts to fight any forms of intolerance, and hate speech, on the basis of ethnicity, faith, gender or sexual orientation.’	Establishment of a specialized body to combat racial discrimination (CRI(2010)17) Effective enforcement mechanisms

Nevertheless, people usually fall short of taking the matter to the court or the Ombudsman. Some NGOs has suggested that this is due to the general lack of trust of minorities towards the judicial system and a deep-seated perception of ethnic discrimination (MRGI, 2008).

3.2 The nature of challenge: domestic adjustment costs & salience of norms

In principle, adoption of comprehensive anti-discrimination law should not have been politically and economically/institutionally costly, since principles of equality and anti-discrimination are already enshrined in the Constitution of Georgia. For instance, Article 14 of the Constitution provides that “everyone is free by birth and equal before law regardless of race, colour, language, sex, religion, political and other

⁴⁴ Should be applied only in the field of civil and administrative law (and not criminal law). The principle means that the complainant should establish facts allowing for the presumption of discrimination, whereupon the onus shifts to the respondent to prove that discrimination did not take place (CRI(2010)17).

opinions, national, ethnic and social belonging, origin, property and title, place of residence”. Article 38 of the Constitution further establishes equality in social, economic, cultural and political life irrespective of their national, ethnic, religious or linguistic belonging. The same Article (38) stipulates that the citizens of Georgia shall have the right to develop freely, without any discrimination and interference, their culture, to use their mother tongue in private and in public. Other constitutional provisions enforcing non-discrimination provision include Article 109 (murder motivated by racial, religious, national or ethnic intolerance), Article 117 (infliction of serious injuries motivated by racial, religious, national or ethnic intolerance); and Article 126 (torture motivated by racial, religious, national or ethnic intolerance) of the *Georgian Criminal Code* of 1999.

However, the ‘problematic’ aspect of this issue is related to provisions of anti-discrimination on the grounds of *sexual orientation*. As has been stated in the Chapter III, opposition within Georgia towards the ‘West’ rallies around its potential ‘corrupting’ effect’. In a way, this represents the crux of anti-European sentiments in Georgia (Smith, 2014) – belief that “homosexuality is a sin and pathology” on the one hand, and seeing ‘Europe’ as the main ‘distributor’ of the norm. The fear is that Georgian conservative values are going to be compromised. “We have nothing to learn from Europe”. Thus, inclusion of the ‘sexual orientation’ aspect into non-discrimination provisions was expected to cause mass protests and be politically costly for the government. The law was heavily criticized by what minority rights activists have referred to as the ‘most powerful political party in the country’ – the Georgian Orthodox Church (GOC) (MRGI, 2008). GOC stated that anti-discrimination bill legalizes “deadly sin” by including “sexual orientation” and

“gender identity” in the list of prohibited grounds of discrimination (Janashia, 2014).

Table 4.11: Key explanatory factors with regard to anti-discrimination provisions, and the resulting expectations for compliance

	H2: Domestic salience of norms	H3: Domestic adjustment costs	
		Economic and/or institutional costs	Domestic opposition
Adoption of legal provisions	Low	Low	Yes
<i>Implementation</i>	<i>Less likely</i>	<i>More likely</i>	<i>Less likely</i>

3.3 Post-Accession compliance

Formal Compliance: Legislative changes

On 15 June 2001 Georgia ratified Protocol No.12 to the ECHR, which provides for a general prohibition of discrimination and entered into force on 1 April 2005. On 30 June 2005, Georgia made the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination. On policy level, the National Concept for Tolerance and Civic Integration (2005) set the goal of strengthening and implementing effectively legislation and internal public service procedures against discrimination.

In 2010 (CRI(2010)17), Georgian authorities have informed ECRI that they had no intention either to introduce a general aggravating circumstance or to add new offences to the current provisions to combat racism and intolerance. However, with the change in government in March 2012 the criminal code of Georgia was amended to include hate crime provisions based on racial, religious, national or ethnic intolerance as aggravating circumstance. These provisions encompass Articles 53, 109, 117, 126 and 258 of the Criminal Code of Georgia. Having no internal stakeholders, the amendments were initiated as a result of ECRI’s recommendations

only (Interview with Gotsiridze, 12 November, 2014). In the process of discussion of the amendments, civil society was involved and the parliament then finally adopted the law successfully without impediments from other internal stakeholders, such as GOC (Interview with Gotsiridze, 12 November, 2014).

Georgia's Broadcasters' Code of Conduct adopted in 2009 also contains provisions prohibiting hate speech and broadcasters are under the duty to create public appellate bodies that will receive complaints from the public and take binding decisions in this field. However, it seems that these provisions have not yet been applied and some commentators suggest that the mechanisms put in place for their implementation are not efficient and should be ameliorated (ECRI(2010)17). As is shown in Table 4.7, courts have not used any of the provisions to date.

Lastly, on 17 April 2014, the Parliament passed the law on "Elimination of All Forms of Discrimination". The law envisages the introduction of mechanisms against discrimination conducted on the grounds of race, color, language, gender, age, citizenship, native identity, birth, place of residence, property, social status, religion, ethnic affiliation, profession, family status, health condition, disability, expression, political or other beliefs, sexual orientation, gender identity, and "other grounds."

Behavioural Compliance: Implementation of legal provisions

How anti-discrimination law is going to be implemented in practice is yet to be seen. However, a range of civil society organisations has criticized the final version of the law. Legal advocacy and watchdog organizations raised concerns about mechanisms for addressing the acts of discrimination, including financial penalties. The original version of the anti-discrimination law envisaged establishment of a new institution that would have the power to oversee the implementation of the Law. The adopted

version of the law places these competencies under the Public Defender's Office (PDO).

Thus, for instance, Georgian Young Lawyers' Association (GYLA) expressed its concern that replicating already existing competencies of the PDO, without supplying additional funding, would lead to a rather inefficient implementation of the law (Civil.ge, 2014a).

Comparative Conclusion

Despite presence of opposition in the face of GOC, the government adopted comprehensive legislation on Elimination of All Forms of Discrimination. However, interviews revealed that the pressure from GOC resulted in the adoption of what they called “watered down” version of the law. Not only does the law not envision establishment of specialized mechanisms that would act upon appeals, an accompanying explanatory note to the bill also stated that the government will not provide any additional financing to PDO for the implementation of the legislation (Janashia, 2014). In addition to these restrictions, it is also important that PDO does not have law enforcement capacity.

4 Comparative Analysis

This chapter provided analysis of implementation of the FCNM norms. In particular, anti-discrimination provisions, linguistic and religious rights against domestic adjustment costs and salience of norms among the general population – factors hypothesized to influence implementation of issue specific IO recommendations (see Chapter II).

4.1 Importance of issue-specific factors

Analysis of the implementation of linguistic rights has shown, in the absence of opposition/veto players, economic and/or institutional costs do not influence the pattern of norm adoption, whereas as salience was positively correlated with implementation of norms in the area of linguistic rights.

Further analysis of compliance with religious rights has shown, when domestic economic and/or institutional costs are low, implementation pattern is positively correlated with the presence of veto players/domestic opposition and salience of norms domestically. Interestingly, whenever GOC's opposition (either as a veto player in the area of education or non-governmental opposition in other areas) was present, it strongly correlated with that of the general population (salience of norms). This might not be surprising, given the role both religion and language play in Georgian identity, and the fact that GOC is an anchor of it.

However, analysis of compliance with anti-discrimination provisions has shown, under low economic and/or institutional costs and presence of opposition (and low salience), formal compliance still takes place.

It could thus be concluded that economic and/or institutional costs do not determine the trajectory of formal compliance with IO recommendations. This is not to be said that economic costs (or shortage of funds in particular) can have no effect on the quality of implemented reforms (behavioural compliance). On the other hand, the record shown by presence/absence of veto players and domestic opposition is mixed. Under presence of veto players in the face of GOC, the government was able to carry policies for secularization of educational establishments before 2007, as well as adopt comprehensive anti-discrimination law. At the same time, GOC managed to maintain

its ‘special’ legal status vis-à-vis other religious organisations. It is also directly involved in the issue of restitution of religious properties.

In line with comparative research methodology, to account for the inconsistent outcomes the analysis will now be moved one level up – to the country-level explanatory factors to explain the pattern of compliance. In particular, the role of the ruling government orientation/identification (H1.1), their attitude towards minorities (H1.2) and external incentives mechanisms (H5).

4.2 Importance of country-level factors

Given the ruling government’s orientation, it was suggested in Chapter III, that strong pro-Western orientation will positively affect compliance pattern with FCNM after Saakashvili came to power. Indeed, majority of reforms analyzed in this chapter, including adoption of FCNM *per se*, were introduced after Saakashvili came to power. However, as has been shown throughout this chapter, the government failed to address a number of outstanding recommendations, including, among others, provisions ensuring restitution of religious properties confiscated from minority religious groups during Soviet period and provisions related to comprehensive anti-discrimination law. It is worth noting that in 2010 authorities have officially informed ECRI that they had no intention to introduce such a bill. Additionally, a drawback on implementation of policies to secularize education was observed.

These changes are better explained by domestic political/economic developments and government’s nationhood policies. Implementation dynamics of linguistic policies in Georgia, where teaching of Georgian was prioritized over teaching of and in minority languages is a good example in case. Education and linguistic reforms/policies introduced in the aftermath of the ‘Revolution of Roses’ are reflective of the

government's policies to build a unified nation, based on Georgian cultural values. Saakashvili is well known for his attempts to picture himself as *David the Builder* – an important historical figure, king of Georgia in the XII century, who is viewed as a unifier and the builder of the Georgian nation (Mitchell, 2009b: 100). Georgian language became a centerpiece of a broader integration project of Georgia's minorities into Georgian societal culture. Even though officially, the *State Ministry for Reconciliation and Civic Equality and Tolerance Council* – the institution directly in charge with the issues of integration – used the term civil integration, based on the principles of 'civic nationalism' (Sordia, 2009: 4),⁴⁵ the model for civil integration followed by Saakashvili's government did not embrace and celebrate diversity. Instead, it was based on the model of the European nation-state (Nodia, 2010). Hence, the emphasis was made not so much on preserving minority languages, but on teaching Georgian to minorities and integrating them into Georgian societal culture. International recommendations to promote adequate teaching of the Georgian language in all schools to foster their participating in society did not run against the government's policies of nation-building and promoting to language as a *lingua franca* within the Georgia proper.

When 2007 anti-government protests took place and Saakashvili's reputation was compromised, the government could no longer implement policies that were opposed by GOC – the main opposition force, with the same effectiveness. Hence backsliding in reforms related to secularizing education was observed. The 2011 reforms, whereby religious organizations were allowed to register as legal entities of public

⁴⁵ See, for example, the notes from the speeches of Ms. Bela Tsipuria, Deputy Minister of Education and Sciences; Mr. Guram Svanidze, a member of the Parliamentary Committee on Human Rights and Civic Integration; Mr. Temur Lomsadze, a member of the State Ministry for Conflict Resolution, and Ms. Ana Zvania, the Special Advisor to the President on Integration (in Popjanevski J and Nilsson N. (2006) *National Minorities and the State in Georgia*. In: Cornell SE (ed). Uppsala, Sweden: Central Asia-Caucasus Institute & Silk Road Studies, 1-32..

law, do not contradict this either. A closer look at the reforms shows, given the changes in legal statuses of religious minorities, those changes did not alter the ‘status quo’ of the main ‘opposition ‘party’ – that is, the privileged status of GOC over other religious denominations.⁴⁶ This could arguably mean that adoption of the relevant legislation was not politically costly for the government. Restitution of religious properties, on the other hand, would require, among other things, that GOC hands over some of the churches that are under its use to other religious denominations.

However, the change in government and the ‘carrots’ provided by the EU led to adoption of comprehensive anti-discrimination provisions, despite a strong opposition by GOC. In 2009, the EU has tied up anti-discrimination provisions to conditional visa-liberalization process within its EaP programme. For both governments of Saakashvili and Margvelashvili adoption of a comprehensive anti-discrimination law has never been a priority. Both in the area of religious rights and non-discrimination the main viable opposition has been the Georgian Orthodox Church. All the variables remained similar throughout the ruling of the last two governments, except one – ‘external/IO incentives’. For Margvelashvili’s government these incentives proved ‘worthy’ of changing the status quo, whereas as Saakashvili’s government did not opt for any changes.

Why given a strong pro-European identity did Saakashvili’s government not use the incentives provided? As has been stated in Chapter III, Saakashvili’s government did not use EU’s economic incentives in the form of signing the DCFTA, as the government was in favour of an alternative ‘Singaporean’ economic development

⁴⁶ Legal provisions on tax regime for religious minorities remain unchanged. Adherence to the provisions of Law of Georgia On General Education which explicitly prohibits proselytism, indoctrination and display of religious symbols on the territory of public schools for non-academic purposes still remains problematic. Up to 40 cases of religious persecution and discrimination observed in 2009-2011 remained uninvestigated (PDG, 2012, p 294).

model. Thus, incentives provided by the EU did not match with government's preferences and adopted economic development policies. For Margvelashvili's government on the other hand, whose economic development model diverges from Saakashvili's, signing DCFTA presented a good opportunity to cement domestic reforms in the area. In particular, introduction of economic reform required by the DCFTA - introduction of anti-monopoly regulations, food safety legislation and amendment to Labour Code to widen the rights of employees (Papava, 2012: 94) , among others, were in line with Margvelashvili's economic policy imperative.

It can thus be concluded, in Georgia, international pressure post-accession was successful in cases where IO recommendations went in line with the ruling government's preferences. In particular, it's nation-building economic policy imperatives. Process tracing analysis has shown that government's pro-EU/Western orientation has not been deterministic in the rationale behind norm adoption post-accession. Process tracing analysis of reform implementation post-accession has also revealed, while ruling government's preferences determined the form of post-accession changes, domestic opposition and/or veto players, when present, have significantly shaped their content and quality of behavioural compliance.

CHAPTER V. Compliance with the FCNM in Latvia: *International obligations, Preferences and Incentives*

Latvia is one of the fifteen Republics that gained independence from the Soviet Union. After proclaiming its independence in 1990, the Latvian government *restored* the constitution of 1922 and the Citizenship Law of 1919. The determination of the Latvian government to ‘return to Europe’ made it subject to international pressure from organisations such as the OSCE, the CoE, the EU, etc. to develop an inclusive, cohesive and multicultural society, reflective of European/Western norms and standards.

This chapter focuses on the post-accession developments as “a litmus test” (Sasse, 2008: 48) of the medium- to long-term consolidation of pre-accession reforms and Latvia’s socialization into the norms of minority protection. It focuses on country-level explanatory factors that may change over time, but stay constant across the issue areas. The country-level explanatory factors include ruling elites’ identification with the EU, ruling elites’ attitudes towards minorities and presence/absence of veto players in coalition governments. After the correlation between country-level explanatory variables and adopted policies will be established, the chapter lays out a prospective expectation of formal and behavioural compliance (which are subject to Chapter VI) with the principles incorporated in the FCNM across time in Latvia. Afterwards, the following two questions will be addressed: *why did the Latvian government adopt the FCNM, after attaining EU membership? And why having had adopted the FCNM, it failed to ratify the ECRML?*

This chapter shows there is a tentative correlation between ruling government’s EU orientation and policies adopted post-accession. More conclusively, the inferences drawn from comparative analysis of the four clusters (under which norm adoption

was particularly high) indicate that presence of 'veto players' in coalition governments do not define the form of adopted changes. Process tracing analysis of formal policy and legislative changes under investigation showed changes were introduced as a *reaction* to preceding 'crucial events,' internal and external, that revived government's sensitivities around the issue of language and security. Further analysis of ratification of the FCNM showed while international pressure bore fruits in terms of formal ratification of the Convention, domestic political considerations defined the content of it.

1 Minority rights in Latvia: International obligations, nature of challenges, post-accession changes

1.1 International obligations

Upon accession to the Council of Europe (CoE) on February 10, 1995, Latvian government undertook the commitment (PACE (1995)183) 1) with regard to conventions to sign and ratify the *Framework Convention for the Protection of National Minorities (FCNM)*; 2) with regard to domestic policies pertaining to treatment of its 'non-citizens', not to "arbitrary and unjustif[iably] discriminat[e] between citizens and 'non-citizens'" (PACE (1995)183).

A consequent report of the Committee on the Honouring of Obligations and Commitments by the Member States of the Council of Europe (henceforth, Monitoring Committee) further specified that this means, "to integrat[e]...the non-citizen population into Latvian society... [without] imposi[ng]... the state language in the private sphere and the proposed amendments to the Labour Law Code, which may infringe the human rights of minorities" (PACE (1999)8426). In this regard, the Latvian government committed to

“... to continue its consultations and co-operation with the Council of Europe’ in implementing the law on citizenship and in drawing up a law on the rights and status of “non-citizens”: all laws and regulations, including notably those on the use of languages, must be applied without unacceptable pressures on individuals or unduly prolonged procedures” (PACE (1995)183)

Advisory Committee recommended Latvian officials to “de-emphasize the issue of language proficiency as the sole sign of integration and adopt a broader approach towards social cohesion that accommodates and respects diversity as part of the Latvian state and society, and facilitates the public discussion of minority rights without isolating proponents as disloyal” (ACFC/OP/II/(2013)001).

1.2 Nature of challenges: demographics, identity, ‘kin-states’

Latvia's post-independence political discourse and attitude toward the so-called Russian-speaking minorities has been based on legacies and experiences of communist regime (Agarin, 2010). In this respect, change in demographic structure was of particular concern.

Latvia's population structure has changed significantly as the result of immigration of people from other Soviet republics during the communist rule. As is summarized in Table 5.1, before Soviet occupation of Latvia in 1940, ethnic Latvians constituted 75.5% of the total population. In 1989, shortly before Latvia regained its independence, this ratio has dropped to 52%.

Table 5.1: Change in demographic structure of Latvian population, 1935 – 1995.

	1935	1989	1995
Latvians	75.5%	52%	54.8%
Russians	10.6%	34%	32.8%
Other	13.6%	14%	12.4%

Source: All-union Population and Housing Census 1989, Open Society Institute (1997), PACE (1999)8426

In the early years of post-independence, ethnic agenda trumped democratic considerations (Järve, 2013: 180). As a consequence, government's priority was not a smooth adoption of the standards promoted by the European Community, but linguistic and political containment of hundreds of thousands of Russian-speaking Soviet-era settlers. Two pressing questions at the time were how to get the number of Russians down and how to keep them out of politics at the national level (Järve, 2013: 175; Muiznieks et al., 2013: 291). Suggested measures varied from deportation of all Soviet-era immigrants to imposition of the quota system, restricting naturalization to a certain amount of people.

Willingness to dismantle the Soviet legacies resulted in the creation of different categories of permanent residents of Latvia – citizens and non-citizens (and stateless people) – who had different political, social and economic rights. Both issues of language and citizenship remain as important matters concerning the issues of symbolism, political competition and economic rights. The role of International Organisations (IOs) in easing nationalist sentiments and fostering adoption of more moderate minority policies has been substantial (Morris, 2003; Muižnieks and Kehris, 2003; Dorodnova, 2003; Kelley, 2004a; Galbreath and Muižnieks, 2009; Galbreath and McEvoy, 2011; Solska, 2011; Silova, 2006a; Kochenov, 2008). However, not all issues had been resolved.

Some of the issues pertaining to the period preceding Latvia's EU accession have been carried through to post-accession period. The near inverse relationship between state identity and minority rights obstructs resolution of the outstanding issues. The state identity is closely intertwined with the fear of encroachment of Russian language in Latvia. Domination of non-ethnic Latvians in domestic political and economic

institutions during the late decades of Soviet regime on the one hand and their sheer numbers on the other fostered what Järve (2013) termed as 'resentment nationalism.' It nurtured perception among the ethnic Latvians of being in a disadvantageous position (Commercio, 2010: 27-50). On the other, it fostered a desire to break free from communist legacies, by altering all societal changes brought by it. Hence, any attempt to broaden the rights of minorities is perceived to be undertaken at the expense of Latvian identity.

To date, Latvian society is described by a phenomenon of 'minoritised majorities', where political discourse is dominated by binary vision of societal structure, divided into "us" and "them", in which both ethnic Latvians and Russian-speaking minorities have a minority mentality (Interview with Cilevičs, 2 April, 2015) and both are suspicious of each other's intentions. Ethnic Latvians feel their culture and values are being threatened by "others." In turn, minorities feel a constant attempt on the part of the government to restrict their rights. These views are reflected in a recent public survey conducted by the Faculty of Social Sciences of the University of Latvia in 2011. The study shows that minorities are not seen as an integral part of Latvian society. What is also important: neither do minorities. The findings are summarised in the *Latvian Centre for Human Rights (LCHR) Report*:

Although the majority of ethnic Latvian and Russian respondents generally agree that the state should promote the preservation of culture and traditions of various ethnicities (74,9%) and support respect towards minorities as global civic values (73,5%), the survey also suggests that the majority of ethnic Latvians support the idea of an ethnic nation. E.g., 44 % of ethnic Latvians, 7,8% of Russians and 9,1% of representatives of other ethnicities agreed with a statement "I would prefer a Latvia populated only by Latvians." 36% of ethnic Latvians, 20% of Russians and 22% of other

ethnicities agreed with a statement "People of other ethnicities with different traditions and habits cannot belong to Latvia even if they have resided in Latvia for many years." Young people aged 18-24 are less intolerant towards cultural diversity (LCHR, 2013).

Sensitivities around minority rights led to what is widely believed to be the lack of political will on the part of the government to work on the integration of minorities into Latvian society. Ejzhenija Aldermane, former Head of the Naturalisation Board (1995-2008, interviewed on 24 March, 2015), and Irina Vinnika, Former Head of Secretariat for Integration (interviewed on 24 March, 2015) referred to the issue of social integration as "hot potato." Indeed, since Latvia's accession to the EU, the oversight and responsibilities over the integration issues have been shifted from one state department to the next. Before 2009 the Secretariat of the Special Assignments Minister for Social Integration was responsible for implementation of state policies in the field of social integration, fight against racial discrimination and minority rights. In January 2009, the Ministry of Children and Family Affairs of Latvia took over the functions of the Secretariat and became the Ministry of Children, Family and Integration Affairs. After elimination of the department in July 2009, the Ministry of Justice took over, to be replaced by the Ministry of Culture on January 1, 2011 (Bogushevitch and Dimitrovs, 2010).

While the issue of the use of Language relates to the question of identity only, the question of citizenship includes more pragmatic considerations. At the time Latvia regained its independence, 29% of the total population (approximately 730 000) had the status of non-citizens (MFA/RL, 2015). Non-citizens cannot, among other things, participate in elections, which hinders their capability to influence politics. Though the percentage of non-citizens has been decreased twofold, granting citizenship to

everyone residing in Latvia could potentially bring significant changes to the political landscape. In his interview, Dr. Andrej Berdnikov (24 March, 2015), an activist of the "Dawn" (For the Russian language), argued that politicians hesitate naturalizing all non-citizens as that would change the whole electoral base. "In that case, politicians would lose Riga, headed by Russian mayor at the moment... and many other cities at the municipal level, densely populated Russian-speaking population." This point was reiterated by Lolita Čigāne (interviewed on 23 March, 2015), MP from Unity party, as well as the Chairperson of the European Affairs Committee of the Saeima,

"...we cannot extend the voting rights both in municipal and national elections to non-citizens because we just cannot do it. Because then our political process would be completely different. We just need to safeguard it. So we are not going do it, and it is a longstanding recommendation that is most likely... well in the nearest future... not going to be implemented."

Last, but not the least, these issues are exacerbated due to suspicions over Russia's intentions. Issues in interstate relations between Latvia and the Russian Federation hamper the progress in the issue of non-citizens in Latvia (Malloy et al., 2013: 157-158). Russia's active international lobbying activities for propagating for the rights of Russian speakers and non-citizens adds up to the suspicions.

1.3 Post-accession changes

The government of Latvia signed the FCNM on May 11, 1995, three months after Latvia joined the CoE. It took the Latvian government ten years to finally ratify the Convention on 26 May 2005, which entered into force on October 1, 2005. Ever since the government has taken a number of policy and legislative measures that affected the state of minority rights in Latvia. In this regard, analysis of legislative and policy changes from May 2004 to May 2015 showed four different clusters – each not

exceeding the period of six months – during which the number of changes was particularly high (see Appendix A). The first cluster covers the period from May 2008 to October 2008 under the leadership of Ivars Godmanis (XIV government). The second cluster, from April 2011 to August 2011, covers the working of the XVI government under the leadership of Valdis Dombrovskis (I). The period under Dombrovskis's second government (II), from February 2012 – June 2012 presents the third cluster. And finally, the fourth cluster coincides with the period under the leadership of Laimdota Straujuma, from June 2014 to November 2014.

The post-accession changes ranged from measures taken to regulate the use of language in public and private domains to granting citizenship to newborn children. Among the most prominent legislative and policy changes undertaken in this regard were adoption of *National Identity and Society Integration Guidelines for 2012-2018* in August 2011, amendments to the *Law on National Referendums, Initiation of Laws and European Citizens' Initiative* on 11 October 2012, amendments to the Article 32 of the Labour Law, and changes to the Citizenship Law (2013).

The following sections (2 & 3) present country level explanatory factors that change over time, but stay the same across different issues (e.g. linguistic rights, etc.). These sections are followed by a summary of explanatory variables affecting implementation of norms across time in Latvia, and the resulting expectations for compliance. Afterwards, against the expected scenario of compliance, a comparative analysis of the post-accession changes adopted in the aforementioned four clusters will be presented to establish a correlation between explanatory variables and the existing outcomes.

2 'Top-down' processes

2.1 Ruling governing coalitions: an overview

Party political representation in the Saeima

There has been no dramatic change in the representation of political parties in the Saeima since Latvia regained its independence. As is shown in Table 5.1, since 2004, when Latvia joined the EU, five legislative bodies – Saeimas – and ten governments (cabinet of ministers headed by a Prime minister) were formed.

Table 5.2: Representation of political parties in the Parliament of Latvia, 2002 - 2014

Saeima	Governments	Tenure	Prime Minister	Coalition Partners	Number of seats in the Parliament (of total 100)
8 th	X	7 November 2002 – 9 March 2004	Einars Repše (JL) ⁴⁷	ZZS, LPP, TB/LNNK, JL	55
	XI	9 March 2004 – 2 December 2004	Indulis Emsis (LZP Greens)	ZZS, LPP, TP	51
	XII	2 December 2004 – 7 November 2006	Aigars Kalvītis (TP)	ZZS, LPP, TP, JL	69
9 th	XIII	7 November 2006 – 20 December 2007	Aigars Kalvītis	ZZS, LPP/LC, TP, TB/LNNK	59
	XIV	20 December 2007 – 12 March 2009	Ivars Godmanis (LLP/LC)	ZZS, LPP/LC, TP, TB/LNNK	59
	XV	12 March 2009 – 3 November 2010	Valdis Dombrovskis (JL)	ZZS, TP, TB/LNNK, JL, PS	67
10 th	XVI	3 November 2010 – 25 October 2011	Valdis Dombrovskis I	ZZS, V ⁴⁸	55
11 th	XVII	25 October 2011 – 22 January 2014	Valdis Dombrovskis II (V)	V, NA, RP	56
	XVIII	22 January 2014 – 5 November 2014	Laimdota Straujuma (V)	ZZS, V, NA, RP	69
12 th	XIX	5 November 2014 – <i>present day</i>	Laimdota Straujuma (V)	ZZS, V, NA	61

Source: Official website of the Saeima (Parliament) of Latvia, <http://www.saeima.lv/en> Highlighted clusters represent periods during which the number of adopted post-accession changes was high.

⁴⁷ One of the founders of the Latvian National Independence Movement (LNNK). Later a member of Unity (2011-2013) and Latvian Development (2013-present)

⁴⁸ V – Unity – was formed as a result of merger of JL, Civic Union

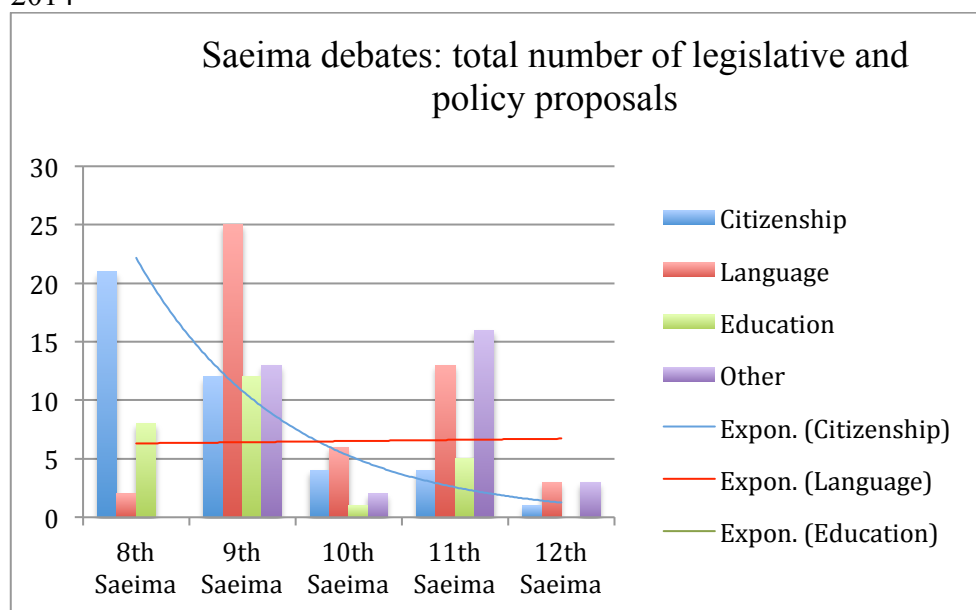
Since the early 1990s to date, political spectrum in the Saeima, the Parliament of Latvia, has been characterized by the cleavage between 'left' and 'right'-wing political parties. The majority of political parties that formed governments since the beginning of the 1990s have publicly identified themselves as centrist or centre-right (e.g. Latvia's Way, New Era (JL), People's Party (TP), For Fatherland and Freedom (TB/LNNK). Domestic experts argue that affiliation with the right-wing parties has been a *sine qua non* to be considered for the government (Kažoka, 2010: 85). Indeed, none of the so-called 'leftist' parties have ever been included in the governing coalition.⁴⁹ Some MPs have openly suggested that "cooperation" with left-wing parties is "impossible," as long as they express the views that run against official government's positions. Importantly, such approach is believed not be undermining pluralism in Latvia. In her interview with a local newspaper *Latvijas Avīze*, MP Solvita Aboltina from Unity fraction suggested, involvement of ethnic non-Latvians in politics and state governance should be based on "their support to the values on which Latvian state was established in 1918 and included in the Preamble to the Constitution of Latvia in 2014 (*Latvijas Avīze*, 2014).

The issue of minority rights remained in the loop of governing coalitions, and Latvia's accession to the EU did not abate the importance of it domestically. However, analysis of the total number of legislative and policy proposals from 2002-2014 has shown, the issue of 'citizenship rights' has gradually lost its political prominence. As is shown in Graph 5.1, while the issue of non-citizens dominated domestic political discourse in the 8th Saeima (2002-2006), the issue of linguistic rights outweighed

⁴⁹ For instance, in an interview with *Latvijas Avīze*, MP Solvita Aboltina from Unity fraction suggested, no cooperation with the Concord Party is possible as long as "it has cooperation agreement with Russia's ruling party United Russia, as long as it considers that it was right to advise people to support referendum on granting Russian language status of a second state language in Latvia, and as long as the Concord is against Latvia's support to Ukraine" *Latvijas Avīze*. (2014) Solvita Aboltina: involvement of ethnic minorities in politics and state governance should be based on their support to Latvian values. Dec. 3, 2014 ed. Riga..

considerations over the issue of citizenship in all consequent Saimas to date. Gradually, the issue of citizenship lost its political prominence domestically. For instance, whereas in the 8th Saeima proposals related to citizenship issue amounted to 21, in the 11th Saeima this number was only 4 and 1 in the first four months of 12th Saeima working. The issue of linguistic rights, however, remains very topical to date.

Graph 5.1: Saeima debates: Total number of legislative and policy proposals, 2002-2014



Party ideological orientation

Rather than representing an ideological spectrum, the cleavage between ‘left’ and ‘right’-wing political parties is discursive in nature, with *ethnic affiliation* defining the contours of difference between the two (Kažoka, 2010). Left-wing political parties are referred to [by their opponents] as parties representing Russian-speaking non-ethnic Latvians and are believed to have a pro-Russian orientation. Right-wing parties, on the other hand, are thought to represent the interests of ethnic Latvians and support the ‘ideas’ of Latvia’s independence and pro-Western orientation (see below). Only recently has there been an attempt to contest so-called established “right-wing” and

“left-wing” distinction (Kažoka, 2010: 85), which is especially evident during the last Parliamentary elections of 2014 (Interview with Berdnikov, 24 March, 2015).

The Chapel Hill Expert Survey (CHES) on position of Latvian political parties regarding ethnic minorities, from 2002 to 2014 (Hooghe et al., 2010; Bakker et al., 2015b; Bakker et al., 2015a) has shown, the so-called left-wing political parties – e.g. Latvian Russian Union (LKS), Harmony Centre (SDPS), have indeed exhibited pro-minority rights stance, while majority of ‘centrist’ and ‘right’ leaning parties somewhat opposed and/or strongly opposed widening the scope of ethnic minority rights (See Table 5.3). Importantly, however, rather than being a rule, it is only a tendency.

Table 5.3: Party position on ethnic minority rights in Latvia

<i>Party ideological orientation</i>	<i>Name of the Party</i>	<i>Scores⁵⁰</i>		<i>Attitude towards granting more rights for minorities</i>
		2010	2014	
Left-wing	Latvian Russian Union (LKS)		0.5	Pro-minority rights
	Harmony/Saskana Centre (SDPS)	1.2	1.4	
Centre	Unions of Greens & Farmers (ZZS)	6.3	6.9	Anti-minority rights
	Latvian Association of Regions (LRA)		5.8	
Centre-right	Reform Party (ZRP)	3.3		Pro-minority rights
	Unity (V)	5.6	6.9	Anti-minority rights
Right-wing	For Latvia from the Heart (NSL)		4.3	Ambivalent
	National Alliance (NA)	9.2	8.8	Strongly anti-minority rights

It can be concluded that the widespread differentiation between ‘right’ and ‘left’ wing parties as being ‘anti’ and ‘pro’-granting minorities more rights should be treated with caution. As is shown in Table 5.3, the cleavage between the so-called left and right

⁵⁰ The 2014 Chapel Hill Expert Survey codebook Bakker R, Edwards E, Hooghe L, et al. (2015b) 2014 Chapel Hill expert survey *Chapel Hill, NC: University of North Carolina, Chapel Hill. Retrieved from chesdata.eu.* identifies “0” as being demonstrative of “strong support” for more rights for ethnic minorities, and the score “10” as indicative of “strong opposition” towards granting more rights for ethnic minorities. Following the coding that is presented for support for EU integration in the same Survey Bakker R, De Vries C, Edwards E, et al. (2015a) Measuring party positions in Europe: The Chapel Hill expert survey trend file, 1999–2010. *Party Politics* 21: 143-152., I identify the score between 0 and 3.5 to be indicative of support, the score between 3.5 and 4.5 – ambivalence, and the score more than 4.5 as indicative of opposition.

wing parties is not as straightforward, as it is popularly believed to be. A closer analysis of party political behavior regarding issues of minority rights in the Saeima from May 2004 to May 2015 has shown, the so-called 'ethnic' vote (where left- and right-wing political parties are expected to vote pro- and anti-minority rights respectively) is observed in the case of what is popularly perceived to be 'far left' and 'far right' political parties – in particular, The Latvian Russian Union (PCTVL) and For Fatherland and Freedom/LNNK (TB/LNNK) electoral alliances. This has been reflected in a number of proposals submitted by both parties either to restrict or widen the scope for the right of minorities and non-citizens of Latvia (see Graph 5.1). The analysis of debates in the 8th and 9th Saeima has shown, the majority of legislative proposals came from either *For Human Rights in a United Latvia* (PCTVL) or *For Fatherland and Freedom* (TB/LNNK) electoral alliances. Out of total 31 submitted legislative and policy proposals, the 8th Saeima approved only 10. Out of 21 rejected proposals, six came from For Fatherland and Freedom/LNNK and three from PCTVL. In the following 9th Saeima (2006-2010) the ratio of submitted to approved proposals was 62/14. Out of 48 failed proposals, 35.5% was presented by PCTVL. Besides suggestions to widen the scope of minority rights, proposals submitted by PCTVL were targeted to address earlier legislative changes. Such competitive position regarding the number of submitted legislative and policy proposals between PCTVL and TB/LNNK ended in 2010, when PCTVL lost its representation in the Saeima. Consequently, the number of submitted proposals decreased from 62 to 37 (in the 11th Saeima). Out of the 22 rejected proposals, 11 were submitted by the newly formed All for Latvia!/FF-LNNK⁵¹.

⁵¹ Before the 2010 Saeima elections, *For Fatherland and Freedom/LNIM* (Tēvzemei un Brīvībai/LNNK) formed an alliance with far right nationalist All For Latvia! TB/LNNK was further dissolved and merged into National Alliance (NA) in 2011.

The discourse surrounding pre-election campaigns sheds further light on the parties that might be of particular importance, when considering expectations for compliance with IO recommendations. Discussions *on* and *of* minority rights have been prominent in the pre-elections campaigns to the 9th, 11th and 12th Saeimas. In particular, the issues of linguistic and citizenship rights have been of high importance. The same could not be said about the elections to the 10th Saeima, where concerns for the protection of Latvian identity and inter-ethnic relations were overshadowed by repercussions of the global economic crisis (Bogushevitch and Dimitrovs, 2010). However, even around this time, the National Alliance ‘All for Latvia’ – ‘TB/LNNK’ (VL-TB/LNNK) presented the most eloquent party programme regarding minority issues (Bogushevitch and Dimitrovs, 2010). Thus, whereas the *Union of Greens and Farmers* (ZZS) did not directly touch upon ethnic minorities in its party programme and *Unity* (V), which ensured the most seats (among the ruling coalition parties) suggested that no amendments regarding naturalisation to the existing legislation are needed, the National Alliance ‘All for Latvia’ – ‘TB/LNNK’ used more populist rhetoric, stating that “When wealthy and big (ethnic) Latvian families will feel like home in Latvia, we will consider our main mission accomplished”.⁵² Among other things, the Alliance suggested struggling against bilingualism and discrimination of Latvians (those who do not speak Russian) in the labour market. It was suggested to introduce double citizenship for ethnic Latvians and encourage engagement of the Russian-speakers into Russia's programs of repatriation (Bogushevitch & Dimitrovs, 2010). The majority of the issues raised by the National Alliance ‘All for Latvia’ – ‘TB/LNNK’ have eventually been addressed and respective legislation introduced (see below).

⁵² Latvia is the only place in the world where the (ethnic) Latvian people can live their lives full of value and develop, speak their language and define their own future... Our program establishes how to achieve welfare, justice and security in a national – (ethnic) Latvian Latvia’

It is thus expected that the presence of ZZS and V⁵³ electoral alliances in coalition governments can hamper compliance with IO recommendations. Importantly, however, the presence of TB/LNNK and/or NA (that TB/LNNK merged into in 2011) in ruling coalitions can make the compliance significantly more difficult: their strong opposition to granting minorities more rights and their dissatisfaction with the *status quo* (their desire to restrict the rights of minorities), elevates them to the position of veto players. As is summarized in Table 5.4, given the party political representation in the ruling coalition governments and presence of veto players among their ranks, it is expected that compliance with IO recommendations is less likely in the 9, 11, and 12 Saeimas. The same applies to the X Government (from 7 November 2002 to 9 March 2004) in the 8th Saeima.

The next section provides an analysis of party political EU orientation/identification, since Latvia joined the EU. The section will then follow by a summary of explanatory variables affecting implementation of norms across time in Latvia, and the resulting expectations for compliance.

2.2 European orientation/identification

The analyses of the data provided by the Chapel Hill Expert Survey (Hooghe et al., 2010; Bakker et al., 2015b; Bakker et al., 2015a) on the overall orientation of the party leadership towards European integration between 2002 and 2014 show (See Table 5.2), support for European integration among majority of parties represented in Saeima was very high up until 2010. In 2007, all, except PCTVL, had a ‘pro-EU’ orientation. The PCTVL leadership with 4.5 approval rate was ‘ambivalent’ about EU integration.

Table 5.4: Overall orientation of the party leadership towards European integration

⁵³ LRA electoral alliance is not mentioned, since it never was a part of coalition governments, as is shown in Table 5.1.

Political parties	Scores ⁵⁴		EU-orientation	Scores		EU-orientation
	2002	2007		2010	2014	
JL	6.5	5.8	pro-EU			
PCTVL	4.3	4.5	ambivalent			
TP	6.3	6.5	pro-EU			
LPP	5.8	5.8	pro-EU			
ZZS	4.8	5	pro-EU	4.1	5	from ambivalent to pro-EU
TB-LNNK	5.3	4.8	pro-EU			
NA				4.4	5.7	from ambivalent to pro-EU
LC	7	7	pro-EU			
LSDSP (SC)	4.8	5.5	pro-EU	3.1	4.2	ambivalent
ZRP				6.0		pro-EU
V				6.2	6.8	pro-EU
LKS					2.9	anti-EU
NSL					4.2	ambivalent
LRA					5.1	pro-EU

After 2010, parties in Saeima ranged from being ‘pro-EU’ (support for EU greater than 4.5), ‘ambivalent’ (support between 3.5 and 4.5), and ‘anti-EU’ (support less than 3.5) (Bakker et al., 2015a). In 2010, the leadership of the ruling coalition showed a mixed result in its orientation towards the EU integration as well. While *Unity* (V) was pro-EU, the leadership of *Union of Greens and Farmers* (ZZS) was ‘ambivalent’ towards the EU integration. This ‘ambivalence’ among the ruling coalition partners has further given way to ‘pro-EU’ sentiments in 11th Saeima. The opposition, however, remained mainly ‘ambivalent’ and ‘anti-EU.’

Importantly, however, while the degree of dissent on European integration within the parties was relatively high in 2002 and 2010, the party leadership demonstrated relative cohesiveness on the issue in 2007 and 2014. Thus, in line with Hypothesis 1.1, given the pro-EU orientation of ruling coalition parties' leadership (and relative cohesiveness on the issue within these parties), we would expect the likelihood of

⁵⁴ Pro-EU – support for EU greater than 4.5, ambivalent (support between 3.5 and 4.5), anti-EU (support less than 3.5) Bakker R, De Vries C, Edwards E, et al. (2015a) Measuring party positions in Europe: The Chapel Hill expert survey trend file, 1999–2010. *Party Politics* 21: 143-152.. 215

transposition and implementation to be more likely during 2007 and 2014. That is, under the leaderships of Ivars Godmanis, Valdis Dombrovskis (II) and Laimdota Straujuma, XIV, XVII and XVIII governments respectively. Dombrovskis (I) period (second cluster) is less likely a case for good transposition and implementation, due to its heterogeneous composition.

Table 5.4: Summary of explanatory variables affecting implementation of norms across time in Latvia, and the resulting expectations for compliance

Saeima	Governments	Dates	IV		DV
			EU-integration orientation	Presence of veto players	Compliance
8 th	X	7 November 2002 – 9 March 2004		TB/LNNK	Less likely
	XI	9 March 2004 – 2 December 2004	Pro-EU	-	More likely
	XII	2 December 2004 – 7 November 2006	Pro-EU	-	More likely
9 th	XIII	7 November 2006 – 20 December 2007	Pro-EU	TB/LNNK	Less likely
	XIV	20 December 2007 – 12 March 2009	Pro-EU	TB/LNNK	Less likely
	XV	12 March 2009 – 3 November 2010	Mixed	TB/LNNK	Less likely
10 th	XVI	3 November 2010 – 25 October 2011	Mixed	-	More likely
11 th	XVII	25 October 2011 – 22 January 2014	Pro-EU	NA	Less likely
	XVIII	22 January 2014 – 5 November 2014	Pro-EU	NA	Less likely
12 th	XIX	5 November 2014 – <i>present day</i>	Laimdota Straujuma (V)	NA	

Note: Highlighted clusters represent periods during which the number of adopted post-accession changes was high.

3 ‘Bottom-up’ processes

The emergence of bottom-up processes in the form of mobilisation of non-governmental groups and civil society organisations dates back to the pre-accession period. Mobilised around the issue of language, and education in minority languages, in particular, Latvian political scene saw mobilisation among the Russian-speaking population (Silova, 2006b: 147). Reforms in the realm of linguistic policies that affected Russian-language medium schools led to the formation of NGOs that

sought to fight for rights to education in one's own language. The most prominent and active organizations in this regard have been the Union for Support of Schools with Russian Language Instruction (LASHOR in its Russian acronym), established in 1996, and the platform called "Headquarters for the Defence of the Russian Language Schools", established in 2003, which includes various non-governmental organisations, individuals as well as parliamentarians in its ranks (Latvian Centre for Human Rights and Ethnic Studies, 2004: 15-16). These NGOs were able to mobilize people, which led to one of the most large-scale protest demonstrations the country has ever seen. These protests were interpreted by some as precedents to inter-ethnic strife (Silova, 2006b: 153-155). While protests never turned violent, they left certain 'traces' in political memory. As will be elaborate on in Chapter VI, this memory, preservation of sensitivities around language issue, and mobilisation potential in this regard, "locked-in" the pre-accession changes, preventing potential drawbacks in the post-accession period.

In the post-accession period, Latvia's citizens (individuals and political parties) started exploring new avenues to exert pressure on their government via EU institutions – the European Parliament in particular. This has been particularly evident in the issue of non-citizens. While bottom-up attempts to foster changes with regard to the issue of non-citizens is subject to Chapter VI, it would suffice to say here that such attempts have not bear fruits yet.

4 Comparative conclusion: process tracing analysis

As was stated in Section 1.3 of this Chapter, analysis of adopted legislative and policy documents from May 2004 to May 2015 showed four different clusters during which the number of changes was particularly high. In this section analysis of the changes

against country-level explanatory variables will be laid out.

4.1 1st cluster: the (XIV) government of Ivars Godmanis

Changes in the first cluster shortened the list of professions requiring language proficiency. These changes were justified in terms of needs of the society, due to the labour shortage in the country. On the other hand, the government introduced fines for violations in the usage of state language to encourage the 'rightful' implementation of linguistic policies (Buzaev, 2013a).

4.2 2nd cluster: the (XVI) government of Valdis Dombrovskis (I)

Under Valdis Dombrovskis (I), restrictive measures regarding the language use have been introduced. First, in April Saeima's Legal Affairs Committee supported the draft amendments according to which an MP could be sent to the state language test.⁵⁵ In July, Saeima supported draft amendments to the Labour Law forbidding employers to require employees' foreign language proficiency. Domestic critics described the amendment as an attempt to restrict the use of Russian language domestically. Finally, in August Minister of Culture Sarmīte Ēlerte presented the draft *National Identity and Society Integration Guidelines* for 2012-2018. The draft was widely criticized for being ethnocentric and introducing the concept of 'constituent nation.'

The first integration guidelines of 2001 defined integration as a "broadening opportunities and mutual enrichment," while integration was sought to be based on Latvian language and culture. This "conceptual inconsistency" resulted from a desire to address international pressures for adopting comprehensive integration strategies

⁵⁵ The draft amendments stipulate that appeal to check state language proficiency of an MP should be submitted by at least 10 MPs. The MP with poor Latvian language proficiency will be given five months to improve their knowledge of the language, and after that, the MP will have to pass the examination. If the MP fails, the Committee on Mandates, Ethics and Submissions forwards to the Saeima a draft law on the expulsion of the MP from the parliament LCC. (2011) Saeimas Legal Affairs Committee supported the draft amendments according to which an MP can be sent to the state language test. *Integration Monitor, Latvian Centre for Human Rights*. Rīga.

on the one hand, and domestic political opposition against such a strategy on the other (Cianetti, 2015). The new programme presented by Minister of Culture Sarmīte Ēlerte made a step further, and in addition to defining integration as “inclusion of all people living in Latvia into society... [...]... based on Latvian language, the feeling of belonging to the State of Latvia and its democratic values, respect for Latvia’s unique cultural space and development of a shared social memory” (Integration Policy 2012-2018, p 7), it introduced the concept of ‘constituent nation’ – equivalent to what Tishkov (1999) termed as a ‘titular nation.’ Non-ethnic Latvians were expected to integrate into Latvian ‘cultural space’ which was not given any clear definition. Thus, the aspect of ownership of the state by a certain part of the population was brought back to political discourse – the part that “created its own Nation State and determin[ed] its national cultural identity” (Integration Policy 2012-2018, p 6). This new approach has greatly contradicted the Framework Document of 1999⁵⁶, where integration of society was presented as "a historical opportunity to jointly develop the state in a common effort based on universal human values and interests" (The Integration of Society in Latvia: A Framework Document, 1999).

4.3 3rd cluster: the (XVII) government of Dombrovskis (II)

Under the leadership of Dombrovskis (II), a statement on the role of Latvian language was adopted. The Latvian language was proclaimed to be the only state language and as one of the milestones of the Constitution of Latvia, which is inseparable from ‘Latvian identity,’ ‘Latvian essence,’ its establishment and meaning of existence (LCC, 2012b). This statement had no legal effect and was purely declarative in

⁵⁶The Framework Document was adopted by the Cabinet of Ministers on 29 September, 1998 as a basis for future discussions, which resulted in the eventual adoption of National Programme "Integration of Society in Latvia." On 6 February, 2001 the Government adopted the expanded version of the Integration Program and priority projects for the next two years along with the calculations of financial requirements (MFA/RL, 2014a).

nature. The declaration was followed by the proposal of the Unity Party to amend the *Law on National Referendums, Initiation of Laws and European Citizens' Initiative*. This proposal was supported by the Saeima (HDIM.NGO/0012/14), making it effectively more difficult for citizens of Latvia to initiate a referendum.⁵⁷ Even though the proposal enlisted support of majority in the Saeima in June, the President of Latvia Andris Berzins did not promulgate the draft amendments and returned it to Saeima for reconsideration, due to his concern that conditions of the collection of signatures which require large financial investments may increase the role of money in politics and deprive the civil society of opportunity to organize oneself and be active (LCC, 2012a).

Four months after the referendum took place Saeima amended Article 32 of the Labour Law, prohibiting employers from requiring foreign language proficiency in job postings if the use of this language is not necessary for the obligations of the employee.⁵⁸ Whereas the government justified the reform within the scope of anti-discrimination procedures (and international organizations welcomed it), domestically it was thought to curtail the use of Russian language.

Additionally, under Dombrovskis (II) leadership, citizenship provisions were liberalized. The new law simplified procedures for registering children who studied in Latvian and new-born children (those born to non-citizen parents) as citizens.

4.4 4th cluster: the (XVIII) government of Laimdota Straujuma

Under the leadership of Laimdota Straujuma the government adopted policies that strengthened the role of Latvian language in public sphere – first, Saeima's Human

⁵⁷ The "Unity" proposed that registered initiators of gathering signatures for a legislative proposal will have to collect 150,000 (or no less than 1/10 of the voters) for the support of the proposal. It was 15 fold increase from the current requirement. For the full (unofficial translation) text of the Law on National Referendums, Initiation of Laws and European Citizens' Initiative see (CVK, 2015).

⁵⁸ The amendments were first submitted in early 2011 by the nationalist party alliance *All for Latvia/Fatherland and Freedom/LNNK*. 220

Rights and Public Affairs Committee approved the draft amendments on significant increase of state language proportion in radio broadcasts in October.⁵⁹ Secondly, the Cabinet of Ministers adopted the new rules on the standards of elementary education (grades 1-9) in state funded schools. These rules envisaged four patterns of education programs for ethnic minority schools and introduced the minimum requirement and state that the proportion of education in minority language or bilingually and in state language should not exceed 40/60% (LCC, 2014c). On the other hand, for the first time since Latvia regained its independence, within the scope of tackling Russia's propaganda (following Ukraine crisis), the government has allocated the amount of 682,399 EUR to the public channel LTV7 with the aim of offering more programmes in Russian. The measures sought to strengthen the local programming and provide alternative sources of information in Russian in Latvia (LCC, 2014a). Lastly, a preamble to the Constitution of Latvia was adopted. The new Preamble touches upon the main tenets of Latvian identity and the country's founding principles. Among other things, the Preamble defines Latvia as "...democratic, socially responsible and national state..." that "...recognizes and protects fundamental human rights and respects ethnic minorities." The Preamble to the Constitution of Latvia (19 June 2014) also states, "...the identity of Latvia in the European cultural space has been shaped by Latvian and Liv traditions, ...the Latvian language, universal human and Christian values. Loyalty to Latvia, the Latvian language as the only official language, freedom, equality, solidarity, justice, honesty, work ethic and family are the foundations of a cohesive society." The Preamble has been widely criticized for its "ethnic" undertone,

⁵⁹ According to the amendments, radio stations which currently are broadcasting half of the content in the state (Latvian) language will be obliged to broadcast in state language only. 90% of the broadcasting time should consist of original programmes produced by a radio station LCC. (2014b) Saeima's Human Rights and Public Affairs Committee approved the draft amendments on significant increase of state language proportion in radio broadcasts. *Integration Monitor, Latvian Centre for Human Rights*. Rīga.

which "reflected the 19th century German style continental concept of nation and nation-state" (Interview with Golubeva, 18 March, 2015). The final adopted version of the Preamble was modified after it had been widely criticised by various strands of society. The adopted version excluded the notion of "state nation/nation-state" referring to ethnic Latvians. A month later, in his interview to *Latvijas Avīze*, the author of the Preamble to the Constitution of Latvia Egils Levits, who is also a judge of the European Court of Human Rights said that the notion [state nation] was taken out due to controversial discussions about it, however, the meaning of "state nation" is described in the Preamble's text. According to Mr. Levits, there is a notion of ethnic minorities in Latvian Constitution, and therefore there should also be the notion of state nation to stress that Latvia is a national state like other European countries (*Latvijas Avīze*, 2014). It is important to note, however, rather than affecting the working of schools (that have already implemented bilingual policies) (ACFC/OP/II(2013)001), the changes, along with the newly introduced Preamble to the Constitution carried a more symbolic importance.

4.5 Comparative conclusion: changes across four clusters

Comparison of changes across four clusters reveals the following pattern: first, all except the second cluster (from 3 Nov 2010 – 25 Oct 2011), include policy measures and legislative changes broadening and restricting the rights of minorities at the same time. In the second cluster, provisions related to language use in public and private spheres were restrictive in nature. Similarly, the newly adopted National Identity and Society Integration Guidelines signaled a change, where integration was now sought to be based on Latvian culture, as opposed to universal human values and interests (see above).

Given the pattern, a few inferences could be drawn. First, since all ruling coalition governments have been formed by parties having a negative disposition towards granting minorities more rights (See Section 2.1), 'ruling elites disposition towards minorities' is not a good indicator for predicting compliance. Second, ruling coalitions of 1, 3 and 4 cluster included 'veto players' in their ranks (in the face of TB/LNNK & NA parties), the government under Dombrovkis II government (2nd cluster) did not. Hence, the role of veto players in determining compliance pattern should be treated with caution. While descriptive inference does not say much about the potential influence of veto players in the adoption of restrictive measures in clusters 1, 3 & 4, restrictive measures taken in the second cluster signal that the presence of veto players in ruling coalition governments is not a necessary condition for adoption of restrictive measures. Neither does their presence hamper adoption of policies and legislation that broadens the rights of minorities (as the clusters 1, 3 & 4 show). In other words, the presence of 'veto players' in coalition governments does not define the form of adopted changes. What is more puzzling is the correlation between 'pro-EU orientation' of the ruling coalition and adopted changes. The ruling coalitions in all, except the second cluster, has a strong pro-EU orientation. The parties forming XVI government (second cluster) – ZZS and V parties has a mixed record, where V was strongly pro-EU, ZZS has an ambivalent attitude. Whether 'ambivalence' towards the EU undermined norm adoption in the 2nd cluster is an open question. However, the real question should rather be whether it is the 'ambivalence' or 'anti-minority rights disposition' of the two parties that led to the adoption of restrictive measures. A closer look at the process will shed light on the role of EU orientation, and if present, of alternative forces/mechanisms at play.

4.6 Latvia's Europeanness: Meaning

Interestingly, parties that are thought to be pro-minority are usually 'ambivalent' or anti-EU. And vice versa, those that have a strong pro-EU orientation strongly oppose giving more rights for ethnic minorities (See Table 5.3) (CHES, 2002-2014). It is also interesting that domestically EU does not enlist high support from Latvian citizens, neither are the values propagated by the EU. As Kažoka (2014) notes, the average Latvian thinks of the EU as an organisation either cooperating or conflicting with Latvia's national interests. The average Latvian almost never considers the EU to be a community of like-minded peers, jointly engaged in solving global problems (Kažoka, 2014). Neither have Latvians trust that the EU is taking their interests into account (Kažoka, 2014). Latvians consider the main achievements of the EU to be freedom of movement and the availability of resources for Latvia's development (Kažoka, 2014). Latvia's inhabitants are not focused on common EU values, or on history as a creator of a common European identity (Kažoka, 2014).

4.7 'Tit-for-tat' trajectory of domestic politics

Process tracing analysis of legislative and policy changes from May 2004 to May 2015 shows that all, except the first cluster, agglomerate around an 'important event' – namely, Saeima elections or referendums. Each of these major political events triggered legislative and policy proposals, revealing what I termed here as a 'tit-for-tat' pattern of Latvia's domestic politics: namely, policy/legislative proposals are triggered as a *reaction* to either other policy/legislative proposals or 'important events' (e.g. Ukraine crisis, referendums, etc.).

The 'tit-for-tat' politics is to a large degree affected by ideological foundations of Latvian identity and statehood. Identity serves as a prism through which external and

internal events are analyzed, and their potential effects on Latvian society is evaluated. Once events are perceived to constitute a threat to Latvian identity and understanding of "how things should work," MPs react by introducing new legislation and policy documents. Below, examples are provided, by focusing on the period from April 2011 to August 2011, due to the number of 'important events' that took place within the period.

The period from April 2011 to August 2011 is marked by five politically contentious events. First in May 2011, Central Election Commission started gathering signatures to (a) hold a referendum on the status of Russian as a second state language and (b) support transition of all state-funded schools only into Latvian language starting with 1 September 2012; secondly, in July 2011 a referendum on the dissolution of Saeima was held; thirdly, PCTVL initiated collection of signatures to force a referendum for the amendments to the Citizenship law. The amendments sought to grant all non-citizens Latvian citizenship if they so desired⁶⁰. Parliamentary elections of September 2011 close this cluster. This period raised sensitivities that echoed one of the biggest fears of 'putting the Latvian language under a risk of being swallowed by the Russian language' and altering domestic electoral landscape (Interviews with Vinnika on 24 March, 2015 and Čigāne on 23 March, 2015). Legislative changes that accompany this period greatly reflect these concerns. However, what is also important, this period is also accompanied by the aftermath of 2008 global economic crisis.

Attempts to force a referendum on the status of Russian language as a second state language brought the question of language back into the centre of political discussions (Zankovska-Odiņa and Kolčanovs, 2015: 32). As a reaction to the proposal, National

⁶⁰. The initiative could gather 12 000 (instead of required 10 000). Before the initiative could go through the second round of signature collection, Latvia's Central Elections Commission blocked further collection. On February 12th, 2014 the Supreme Court of Latvia approved the resolution of the Central Election Commission, stating that the initiative was unconstitutional and banned the referendum in a three to two vote with one abstention (HDIM.NGO/0012/14). 225

Alliance All for Latvia! – TB/LNNK (VL-TB/LNNK) suggested introducing measures to strengthen the position of Latvian language vis-à-vis Russian. Consequently, the issue of the language of instruction in national minority pre-school and general education establishments was raised by the VL-TB/LNNK. It was suggested to create a unified system of pre-school education institutions, which would provide learning in all kindergartens in the official language. The proposal also included provisions for retaining ethnic and cultural identity orientation in the groups which include children from families representing various ethnic backgrounds (Zankovska-Odiņa and Kolčanovs, 2015: 32). As has been mentioned above, the Saeima also supported amendments, according to which MPs could be sent to the state language test. It's also not surprising that the definition of integration was redefined to be the one based on Latvian culture, including the Latvian language.

The school regulations were further amended in September 2014, when the new rules on the standards of elementary education (grades 1-9) in state funded schools were introduced. The introduction of the new rules that aimed, among other things, at promoting the integration of students in the Latvian society, was done before the elections in October 2014. Changes in this cluster (4), from June 2014 to November 2014, were largely a reaction to the Ukraine crisis. While the crisis found a wide resonance in Latvia, dividing the society into two, it revived populist fears of potential Russian aggression against Latvia. Hence, rather than seeking to broaden the scope of minority rights or meet the demand for Russian-speaking broadcasting, the changes in this regard during this period should be interpreted as attempts by the government to address Latvia's national security considerations.

It's noteworthy that the referendum on the status of Russian language itself was a reaction to initiative of the VL-TB/LNNK in May, 2011 to collect signatures for a

referendum on transition of all state-funded schools into Latvian language only starting with September 2012⁶¹. As a response to this initiative, Eduars Svatkovs (the youth movement “United Latvia”) and Vladimir Linderman (NGO “Mother Tongue”), together with Yevgeniy Osipov (Osipov’s Party) and director of the Institute of European Studies Aleksandrs Gaponenko started collecting signatures to force a referendum on the status of Russian language as the second state language. Among this four people, only Gaponenko possessed citizenship (others were non-citizens). When the *Law on National Referendums, Initiation of Laws and European Citizens’ Initiative* was finally amended in 2014 (coming into force in January, 2015), the amended law required the collection of 30,000 signatures (instead of previous 10 000) to initiate the vote. Additionally, the amendment required that 10% of signatures be collected by private persons (previously the second round was organised by the state). Thus, some concluded that the mechanisms of direct democracy in Latvia have lost most of their efficiency (HDIM.NGO/0012/14). The Constitutional Court of Latvia did not see any constitutional abuse in this reform.

As a response to the initiation of the referendum on the status of Russian language by three non-citizens on March 4, 2011 (Buzaev, 2013a: 40), the amendment also estranged non-citizens from initiating legislative changes and national referendums. According to the amended Law, a national referendum can only be initiated if not less than one-tenth of the citizens of Latvia eligible to vote in the previous Saeima elections give their signatures for that (Article 10, Chapter II). In turn, a collection of the signatures could only be initiated by either (a) a political party or alliance of political parties; or (b) an association of at least 10 electors formed and registered in accordance with the procedure prescribed by the Associations and Foundations Law

⁶¹ After failing to gather the minimum 153,232 signatures required (instead, 120,433 signatures were collected), the referendum initiative was failed.

2014 (Article 23, Chapter IV). Thus, restriction of rights of Latvia's non-citizens, in this case, was undertaken as a reactionary-restitutive measure in the aftermath of an attempt to change the status quo.

Similarly, in the 3rd cluster, February 2012 to June 2012, a heavy emphasis on the issue of protection of Latvian language was followed by the referendum on the status of the Russian language.

Politically, nurturing resentment towards the Soviet past (which transformed into anti-Russian path dependency) keeps the issue of minority rights in the realm of security issues and makes them susceptible to political manipulation (Järve, 2013: 181). This becomes particularly evident around the time when citizens cast their ballots in local/national elections or countrywide referendums. These sensitivities are being effectively instrumentalised by political parties and individual politicians to enlist voter support in pre-election periods, as well as to overshadow the "...realities of high unemployment, income inequality, and poverty confronted by the Latvian society across ethnolinguistic boundaries in the context of harsh austerity policies" (Cianetti, 2015: 205). Economically, it restricts the access to certain positions to the people who are either non-citizens or whose language skills do not correspond to the required level. It also provides a channel for blackmailing, where anyone (for whatever reason) could make a complaint to State Language Centre and make the person in case subject to state language examination, where s/he has to prove her/his language competencies in order to be able to preserve the position that s/he held. Politically, these fears are being instrumentalised around politicians seek to gain popularity (or voters' support). Adoption of *Guidelines on National Identity, Civil Society and Integration Policy 2012-2018* in 2011 demonstrates it well.

In her detailed examination of the adoption of both integration policies (2001 & 2011) Cianetti (2015) shows that the “...return to a strongly ethnocentric, divisive vocabulary that distinguishes the ‘titular nation’ from the ‘immigrants’ can be understood as part of a strategic attempt at rekindling the Latvian ‘nationalist social contract’...” and overshadow the “...realities of high unemployment, income inequality, and poverty confronted by the Latvian society across ethnolinguistic boundaries in the context of harsh austerity policies” (Cianetti, 2015: 205). Last integration policy was adopted around the elections of 2011, when as has been stated before *Harmony Centre* tried to challenge the established left-right cleavage and appeal to ethnic Latvians to enlist their votes. Cianetti (2015) argues it is precisely the attempt of the *Harmony Centre* to become a ‘cross-ethnic/group’ political party and the prospects of the emergence of transversal solidarities that fostered such a *strategic* move.⁶² In other words, it is precisely the willingness to sideline ‘congregation of interests’ around the issues of social justice and retribution and displace them with the public debate on identity that necessitated this move. Hence, it could be concluded that apart from being an individual attempt at enlisting voter’s support, adoption of integration guidelines 2011 was once again a ‘reaction’ to political realities at the time. The text of the integration programme fed into the feeling of insecurity and trauma coming from the Soviet experience, which are important parts of Latvian identity. Apart from keeping the *Harmony Centre* in check and enlisting popular support, the new Integration Guidelines have not changed to the legal status of minorities, the content of policies (Interview with Golubeva, 18 March, 2015) or implementation modalities of thereof.

⁶² It is important to note that the global economic crisis of 2008 and its repercussions in terms of creating a vast majority of disadvantaged and dissatisfied people is highlighted by Cianetti (2015) as an important precursor of this situation.

2011 integration programme was elaborated during the moment of higher political tension, as the country was preparing for a referendum on Russian as a second language. In her interview, Maria Golubeva stated, "in Latvia usually in the area of so-called integration whenever there is a crisis, and then the government starts doing something" (Interview notes, *ibid.*). Djačkova (Interview notes, 17 March, 2015) described integration policy document 2011 was as a personal pre-election campaign of MP Sarmīte Ēlerte (Unity Party). Having had monitored the process, Svetlana Djačkova added that after the program was adopted, "[Sarmīte Ēlerte] did not come to the parliament..."

Political instrumentalisation of the issue was possible due to the perceived risk to the Latvian language, whose status of the sole 'state language' was challenged by the referendum on the status of Russian language as the state language. Unlike the issue of citizenship, for instance, the issue of language is something that everyone – different generations, no matter old or young, can relate to (Interview with Berdnikov, 24 March, 2015). As (Muiznieks et al., 2013: 289) note, there is a sense of threat perceived by majorities, coming from the legacy of 'unequal bilingualism.' Hence, these measures *resonate* with public concerns about the status and importance of Latvian language and identity, which is linked to moral superiority (Golubeva and Kažoka, 2010). The same applies to the case of introduction of a Preamble to the Constitution of Latvia on June 19, 2014.

Integration policy document maintained a close connection between integration and state language policy (Balodis et al., 2012: 9). This "close connection" notwithstanding, the two maintained a fine divide. While implementation of state language policy was seen as a responsibility and a matter of honour for the state and was financed from the state budget. Integration policy, on the other hand, was

sought to be “largely [...] implemented by attracting foreign financial resources, such as the European Fund for the Integration of Third-country Nationals and the European Economic Area Financial Mechanism “NGO Fund” (Guidelines on National Identity, 2012: 4). The use of foreign external funds is seen as an important factor that ceased the pressure within the society. The message sent to the public was that native domestic taxpayers are not going to pay for these policies (Interview with Grigule, 26 March, 2015).

Despite these very important changes, implementation of minority rights have not been affected much in practice. The accent on the Latvian language has always been there (as it stated in the chapter on the implementation of the FCNM). Bilingualism, for instance, has never been applied in Latvian language schools. Latvian language schoolchildren were never required to learn Russian. The assumption has always been that it was the so-called Russian-speaking minority that was inherently unsuitable for the current system. Latvian identity is linked to moral superiority (Golubeva and Kažoka, 2010). This thinking has now been reflected in official policy documents.

To conclude, rather than reflecting needs of minorities or being the result of in-depth policy elaboration (Zankovska-Odiņa and Kolčanovs, 2015: 33), integration policies were subject to political manipulation around elections. In general, rather than presenting a single comprehensive minority-related policy, government's actions in this area exhibit a rather sporadic outlet, which is reactive in its nature. The issue of ‘integration’ of society, as such, does not seem to be a governmental priority, which was reflected in a shift of responsibilities between different state departments on the implementation of integration policies.

4.8 Country-level factors: implication for implementation of the FCNM

This chapter has shown there is a tentative correlation between government's EU orientation and policies adopted post-accession under Goldmanis, Dombrovskis I, Dombrovskis II and Straujuma governments. More conclusively, the inferences drawn from comparative analysis of the four clusters indicate that presence of 'veto players' in coalition governments does not define the form of adopted changes. Importantly, process-tracing analysis of changes under the four clusters revealed that majority of changes were introduced as a *reaction* to preceding 'events,' in the form of policy and legislative initiatives (including referenda). The analysis highlighted the importance of 'crucial events' in informing different groups within society to foster changes in minority rights field.

The analysis has shown, from 2004 to 2007, all parties in the Saeima (except PCTVL – which was strongly pro-minority) had pro-EU orientation. This period saw the adoption of the FCNM – the major post-accession development to date. After 2007 support for the EU has declined. Combined with the effects of the global economic crisis of 2008, it led to an increased Saeima activity in minority rights field – the parliament ratified a number of legislative and policy changes. This does not provide fertile ground to predict implementation pattern across time in Latvia. However, sensitivities around language allow us to expect that changes regarding these policies are unlikely. Before we delve into an analysis of implementation, the next section will present an analysis of why FCNM was adopted in the first place. And why, having had adopted the FCNM, the government failed to ratify ECRML.

5 Ratification of the FCNM: case study

Discussions pertaining to ratification of the FCNM have mostly revolved around the issues of Russia's interest in the process and the content of the FCNM *per se*.

Regarding the content of the FCNM, issues of contention were who should be subjects of the given Convention (e.g. how to define national minorities), use of Russian in public space (e.g. using bilingual street names, etc.).

Since May 1, 2004, as Latvia became EU member state, ratification of the FCNM has been rejected several times in the Saeima. The bill was presented in the parliament on May 6, 2004, by the parliamentary fraction *For Human Rights in a United Latvia* (PCTVL) and was rejected by 59 against 20 (with ten abstentions) (REGNUM, 2005a). National Harmony Party initiated the next attempt on April 28, 2005, that resulted in 50 rejections, 20 for and seven abstentions. Both of the presented bills suggested ratifying the Convention in full – without any reservations.

The popular argument against ratification of the Convention was the so-called ‘futility’ of its adoption. In other words, politicians argued that the rights of minorities are ensured by domestic legislation and that there was no need for the adoption of any additional measures. Thus, for instance, the then Minister of Foreign Affairs, Artis Pabriks (from Unity party) in his interview (on 22 July, 2004) to one of the local radio stations suggested, international pressure to ratify the FCNM stemmed from misunderstanding of Latvian context on the one hand, and the willingness of international community to address Russia’s concerns on the other. Mr. Pabriks also reminded that he was not supporting ratification of the FCNM before Latvia joined the EU and NATO (REGNUM, 2004). In a year time, in May 2005, Pabriks convened a formal working group to discuss possible ratification of the FCNM (REGNUM, 2005b). The working group has formulated what has formally been called as ‘declarations,’ which the government made upon eventual ratification of the FCNM on 26 May 2005.

According to the two declarations, paragraph 2 of the Article 10 (recognition of the rights to use minority language in relations between individuals and administrative authorities) and paragraph 2 of the Article 11 (individual's right to display minority language signs, inscriptions and other information of a private nature visible to the public) of the Convention were to be exercised in line with the Latvian constitution (Sasse, 2009: 56). Thus, these declarations have effectively restricted the use of minority language in public. In addition, the working group has defined national minorities as "citizens of Latvia who differ from Latvians in terms of their culture, religion or language, who have traditionally lived in Latvia for generations and consider themselves to belong to the State and society of Latvia, who wish to preserve and develop their culture, religion or language" (Sasse, 2009: 56). This definition did not apply to Latvia's non-citizens.

Hence, in effect, the two central issues in discussions around the adoption of the FCNM were the use of language and the subjects of the given Convention. Language lies at the heart of the Latvian identity. However, it is not only the features of Latvian language that are important but also the perception that it is under threat of extinction vis-à-vis its next-door competitor – Russian. These considerations come to fore when one questions why having had ratified and adopted the FCNM, has the government of Latvia failed to commit to ratifying ECRML. Responding to the question of why ECRML has not been adopted yet, Ms. Čigāne explained,

“...We can't sign it because we can't have street names in Russian. It is just out of the question. I was talking about completely different information space and different language space. You know Latvians are below 2 000 000. *There are around 200 000 000 Russian speakers in the world. So it is completely incomparable. This is the prime reason we need to protect the Latvian language.* Otherwise, it won't be spoken in 20-30 years [emphasis

added]” (Interview with Čigāne, 23 March, 2015).

In Latvia, there is an established understanding that Russian could have had superseded the Latvian language had not the government adopted protective policies and ensured its usage in public and private enterprises. Perceived threat of being immersed by the Russian language due to geographical proximity, historical/institutional legacies, the number of speakers and economic opportunities is exacerbated by dilution of the spatial definition of where the threat comes from, as could be seen from the excerpt above. It is not only Russia’s attempts at promoting the Russian language abroad *per se* that is seen as a threat, but arguably, and potentially every Russian speaker, residing within and outside the borders of Latvia.

These perceptions are accompanied by other questionable statements that put the ability and/or willingness of children with an ethnic minority background to learn Latvian into question. First, ethnic Russians living in Latvia are thought to be unwilling to learn Latvian. Secondly, there is a belief that when the two languages are used in the same space, Russian prevails. Thus, for instance, in its study on language situation in Latvia, from 2004 to 2010, Latvian Language Agency (under the Ministry of Education and Science) reports, when [ethnic] Russian kids interact with [ethnic] Latvians, [ethnic] Latvian kids stop speaking Latvian and choose to speak Russian instead (Balodis et al., 2012).

All these challenges, real and perceived, nurture the understanding that there is a threat to the existence of Latvian language, which further helps to keep the issue of language at the centre of political discourse. It is for this reason that the issue of language remained topical in the Saeima debates, from May 2004 to May 2015 (see Graph 5.1). Analysis of the trajectory of legislative and policy changes has shown that linguistic policies, and concerns regarding the use of Latvian language in particular,

unlike other issue areas (e.g. citizenship, education policies, etc.), attracted consistent interest on the part of [centre-right] political parties. This is the only issue area that after November 2005 was consistently upheld by the MPs and where legislative and policy changes were introduced regardless of the proximity of elections or referenda. Given the low salience of the issue and strong domestic opposition, ratification of ECRML can prove to be politically suicidal to embark on. Even though ratification of the Charter would bring no legal consequences, the issue carries a rather symbolic importance. As Boriss Cilevičs put it,

“nationalists in all Baltic states believe that this [ratification of ECRML] might be interpreted as symbolic sign that we somehow diminish the importance of state language and protection of the state language and so we must demonstrate that we are very strong and so demonstration of strong bone is maybe more important politically than looking good in the eyes of some international organisations” (Interview with Cilevičs, 2 April, 2015).

Ratification of the FCNM, on the other hand, could be attributed to pre-accession inertia. International pressure, combined with the lack of political will resulted not only in the delay of adoption but also the adoption of the framework convention with the aforementioned reservations (the so-called declarations). Adoption of the FCNM with reservations is explained by domestic experts as being “some sort of compromise within the ruling elite” (Interview with Cilevičs, 2 April, 2015) – the compromise reached “between radical nationalists and liberal nationalists” (Interview with Cilevičs, *ibid.*). Thus, while international pressure bore fruits, in the end, the ‘content’ of the reform became subject to negotiation within the political ruling elite of Latvia at the time.

The willingness of the government to ‘look good in the eyes of the international community’ was reiterated by Irina Vinnika, who was involved in the compilation

of first state report on the implementation of the FCNM, during her work at the *Secretariat of the Special Assignments Minister for Social Integration Affairs*. Ms. Vinnika explained,

When my good friend Nils Muižnieks became *the Special Assignment Minister for Social Integration Affairs*, we found out that establishment of the Secretariat and the post of Special Assignment Minister came about under enormous pressure exerted by European institutions and NATO, and the majority of domestic political forces were against its creation... In 2005 we [the Secretariat] were told that we are going to be involved in the compilation of the report on the implementation of FCNM. Since then up until 2008, though not substantially, the government was increasing our budget. This money was directed at financing activities related to protection of ethnic identities of national minorities, who so desired. The number of minority NGOs during the existence of our Secretariat increased threefold. We also prepared the *National Programme for the Promotion of Tolerance in Latvia*. And in principle, towards 2005, we could report to Europe that we are 'fine fellows' [большие молодцы] and that we have completed our homework [мы очень хорошо сделали домашнее задание] (Interview notes, 24 March, 2015).

Later, when the government was preparing its Comments (GVT/COM/I(2009)001) on the Opinion (ACFC/OP/I(2008)002) of the Advisory Committee of the FCNM, Vinnika continued,

as a person, who was then working as a civil servant, I was told to bring [за руку привести] two chairmen of any non-governmental organizations to mark their attendance in the protocol. Participation of representatives of minority NGOs in the preparation of government's Comments was an official requirement of AC. On the next day, without taking into consideration the comments of the two chairmen, the government released its Opinion, which also included factual errors. *That's when I realised that*

bureaucracy and political elites of Latvia had realised 'clearly and utterly'...during the first few years of our membership in the EU...that nothing is going to happen, and no enforcement will be applied [Interview with Vinnika, emphasis added] (Interview notes, *ibid.*).

From the narrative presented by Ms. Vinnika, it could be concluded that no matter the real intentions, the government gives importance to meeting official requirements, at least the text of it (that is, it tried to create the façade), even if it fails to meet the spirit of its requirements. Hence, it could be argued that the government did care about the possible reputational costs that could follow as a result of non-compliance.

This chapter has shown that since January 2006 citizenship and education policies have fallen victim to political instrumentalisation around election and referenda times, whereas as the use of Latvian language in public and private enterprise remains topical to date. Post-accession changes in the field of minority rights have shown two tendencies. First, policies and programs that the government introduces are either reactions to external events (such as Ukraine crisis) or a part of domestic politics that follows the logic of 'tit for tat' politics.

CHAPTER VI. Compliance with Linguistic Rights and recommendations regarding the issue of Citizenship in Latvia

EU accession conditionality has been the driving force behind pre-accession reforms in the field of minority rights in Latvia (Morris, 2003; Muižnieks and Kehris, 2003; Van Elsuwege, 2004). Whether those changes live up the spirit of existing international norms remains a point of contention. However, at the very minimum, as Hughes (2005: 746) put it, conditionality forced Latvian government to soften policies to "a level of discrimination that was acceptable to the EU, OSCE and its HCNM." Among the most prominent pre-accession changes have been reforms undertaken in the area of citizenship and linguistic rights. Falling under the broader category of Latvia's social integration policy (Balodis et al., 2012), these policies are closely intertwined with each other. In the field of education, the policy focus has shifted from aiming at the eventual change to education in Latvian language only to maintaining bilingual education status quo. Whereas as citizenship policies were gradually brought in line with many of other European countries (Sasse, 2009) and now deemed to be in line with international recommendations/standards (see below). This chapter analyses implementation of FCNM in Latvia against issue-specific explanatory variables: domestic adjustment costs and salience of norms among the general population. In particular, it focuses on the policies in the sphere of citizenship and linguistic rights post-accession. Once, and if, issue specific explanatory factors fail to explain domestic compliance pattern (both formal and behavioural), the analysis will then be moved one level up – to county-level explanatory variables, which were subject to the previous chapter.

Comparison across citizenship and linguistic policies showed neither [negative/positive] salience of norms, nor [presence/absence] domestic adjustment costs were sufficient to determine compliance pattern with international recommendations. However, it was observed in both cases that in those cases where the new policies/legislation were introduced, thus changing the form, (e.g. new Citizenship policy, amendments to educational law), the content of implemented policies has remained the same. In addition to this, analysis of compliance against country-level explanatory variables has shown, the introduction of (**some of**) the issue specific policies took place as a *reaction* to either domestic internal or external events (such as referendums, Ukraine crisis, etc.). Pragmatic considerations also played a part, as in the case of language proficiency requirements for certain professions.

1 Citizenship Policies: *Recommendations, Challenges, Compliance*

1.1 International Recommendations post-accession

International recommendations concerning the rights of non-citizens could be divided into two categories. The first one is related to a broader topic of integration of non-citizens into Latvian political and societal culture. Secondly, recommendations stressed the importance of addressing the issue of naturalisation of Latvia's non-citizens. Regarding the issue of integration, international recommendations include a wide range of suggestions – from giving the right to non-citizens to vote in municipal elections (and the right to be elected) (OSCE/PA (2004); PACE (2006)1527; CommDH(2007)9; CRI (2008)2; ECOSOC (2007)E/C.12/LVA/CO/1; UNHRC (2008)A/HRC/7/19/Add.3; ACFC/OP/I (2008)002; CoE (2008)257; EP (2008)0239; CM/ResCMN (2011)6; OSCE HCNM (2011); CoE (2011)317; CRI(2012)3 and narrowing (or decreasing the gap) in rights that citizens, EU citizens (having rights in

Latvia) and non-citizens enjoy (PACE (2006) 1527; UN (2013)A/HRC/23/37/Add.1 (regarding access to jobs)), recommendation to create positive atmosphere in the country that would encourage effective participation of non-citizens in public life of the country.

Secondly, a considerable amount of international attention has been attracted to the issue of citizenship. IOs suggested revisiting naturalisation requirements (as well as procedures), as well as relaxing them for different categories of people (ACFC/OP/I (2008)002). Thus, for example, UNHCR (2010) suggested relaxing language proficiency requirements for elderly persons (Also OSCE/ODIHR (2011)⁶³; UN (2013)A/HRC/23/37/Add.1. It was also recommended to provide citizenship automatically to all children born in Latvia after 21 August 1991 (Also CoE Resolution CM/ResCMN(2011)6; OSCE HCNM (2011); CRI(2012)3; OSCE/ODIHR (2011). It was suggested that Latvian officials ensure that free courses of Latvian language are made available for all non-citizens (ACFC/OP/I(2008)002; CRI(2012)3; OSCE/ODIHR (2011); UN (2013) A/HRC/23/37/Add.1). In general, it was suggested that the government needed to increase naturalisation process and decrease the number of non-citizens (CoE Resolution CM/ResCMN(2011)6; CoE Recommendation 317 (2011). Table 6.1 summarizes indicators for formal and behavioural compliance with IO recommendations.

Table 6.1: IO recommendations and indicators of formal and behavioural compliance with Citizenship policies

	<i>Formal Compliance</i>	<i>Behavioural Compliance</i>
<i>Integration provisions</i>	Introduction of legislation, allowing non-citizens to vote at municipal elections. Narrowing (or decreasing the gap) in rights that citizens, EU citizens (having rights in Latvia) and non-citizens enjoy	The list of professions, where non-citizens are not allowed to work, should not expand. Ideally, it should be shortened.
<i>Naturalisation provisions</i>	Naturalisation requirements should be revisited and simplified	Decrease in the total number of non-citizens

⁶³ Both OSCE and UN said no language requirements for elderly.

	All new born children should be given citizenship	<p>Elderly people (those who are over 65) should be exempted from Latvian language and history examinations</p> <p>All new-born children (born after 21 August 1991) should be granted citizenship automatically.</p> <p>Language courses should be offered for free to non-citizens</p>
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1.2 The nature of challenge

Background: pre-accession changes

In 1991, the Latvian Supreme Council issued a resolution on citizenship in 1991, restoring citizenship only to "those who were citizens of Latvia before 1940, and their descendants." Adoption of the *Citizenship Law*⁶⁴ in 1994 and the *Law on the Status of Those Former USSR Citizens Who Do Not Have the Citizenship of Latvia or That of Any Other State*⁶⁵ in 1995 created three categories of residents: (1) citizens, (2) non-citizens and (3) stateless people. This has effectively left about seven-hundred thousand inhabitants without Latvian citizenship (Kelley, 2004a: 84).

The issue of non-citizens became the subject of international attention and conditionality by a plethora of International Organisations (IOs) – the OSCE, CoE, and the EU among others. International pressure has resulted in alteration of various legal initiatives, as well as real criteria for acquiring Latvian citizenship. When in 1993, a strict naturalisation quota of 1.600 (0.1%) per year was introduced (Smith, 1998: 105), President Guntis Ulmanis vetoed the draft in line with OSCE recommendations (Solska, 2011). As the result of the introduction of such stringent rules, Latvia's membership into the Council of Europe was initially delayed (Morris

⁶⁴ The law determines who can register as citizens and who can access citizenship through naturalization or registration or special procedures, and also defines the main procedures for naturalization.

⁶⁵ The law determines the special status of "noncitizen" for those former Soviet citizens who were registered as living on the territory of Latvia on 1 July 1992, or if their last place of registered domicile before that date was on the territory of Latvia and their children – provided that they have no other citizenship (Soviet military personnel who retired after 28 January 1992 excepted).

and Made, 2008). When the alternative ‘window system’ was introduced in July 1994, determining eligibility to apply for naturalisation on a condition of uninterrupted residence for Latvia’s non-citizens (Muižnieks, 2006: 16), in its Opinion on *Application by Latvia for membership of the Council of Europe* Parliamentary Assembly of the CoE (PACE 183 (1995)) concluded, “[t]hrough the law on citizenship adopted by the Saeima (Latvian Parliament) on 22 July 1994, a major pre-condition for accession to the Council of Europe was fulfilled.” Hence, the pressure exerted by the first High Commissioner for National Minorities Max van der Stoel (OSCE), European Commission and CoE through conditionality proved effective (Galbreath and Muižnieks, 2009: 139; Kelley, 2004a; Dorodnova, 2003: 34; Morris, 2003: 5-6; Muižnieks and Kehris, 2003: 35-36; Solska, 2011). Soon after the adoption of the new Citizenship Law (1994), Latvia joined the CoE in 1995.

In the aftermath of the referendum of 1998, the Citizenship Law (1994) was amended once again and the ‘window system’ abolished (Galbreath and McEvoy, 2011).⁶⁶ The referendum also granted the right to register new-born children (born after 1991) as citizens, given the application of both the parents.

Despite the introduction of new regulations, the law left a few categories of people ineligible for naturalisation. According to the Article 11 of Citizenship Law, among those were former military servicemen, those who served in armed forces or police of a foreign state (including the USSR) who were not permanent residents of Latvia prior to their conscription (Gelazis, 2003: 51), as well as agents of the KGB or any

⁶⁶ The pressure in the form of ‘naming and shaming’ was exerted by Max van der Stoel. In a letter to Latvian Foreign Affairs Minister, the HCNM made a number of specific recommendations for reform of the citizenship law (OSCE HCNM 1996b). The European Commission’s Agenda 2000 document (European Commission 1997) stated that while there were ‘no major problems over fundamental rights,’ the Latvian government was encouraged to ‘accelerate naturalisation procedures to enable the Russian-speaking non-citizens to become better integrated into Latvian society. It should also pursue its efforts to ensure general equality of treatment for non-citizens and minorities, in particular for access to professions and participation in the democratic process.’ (See Galbreath & McEnvoy 2011).²⁴³

other security service and people acting against Latvian independence. Consequently, the 1998 legislation left some of Latvia's residents stateless.

Also, not all recommendations were taken on board. Hence, for example, citizenship was not granted automatically to all children born in Latvia (this was suggested by the OSCE to alleviate the problem of stateless children). This led some scholars to conclude that policy outcome represented a 'normative compromise' between Latvian legislators and the IOs (Dorodnova, 2003: 41, 141).

Saliency of norms

The official position of the government on the issue of non-citizens is that non-citizens of Latvia are not stateless persons (Interview with Čigāne, 23 March, 2015). While the rights enjoyed by non-citizens go beyond the requirement of the 1954 Convention Relating to the Status of Stateless Persons (Ministry of Foreign Affairs of the Republic of Latvia [MFA/RL], 2015), there are significant differences in political, social and economic rights between citizens and non-citizens. By 1995 the number of existing differences in rights between citizens and non-citizens amounted to 66 (Buzaev et al., 1999), one of the most important being the inability to vote.

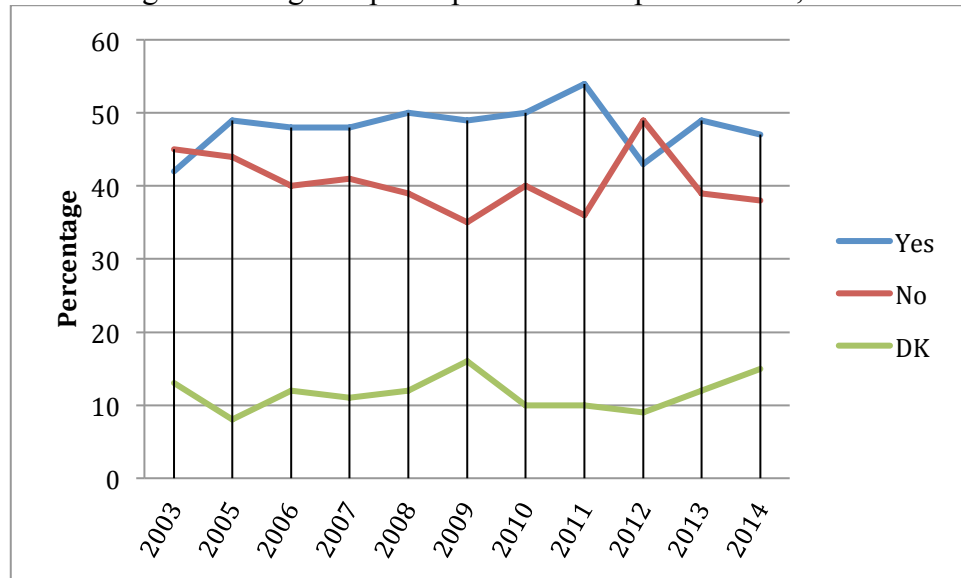
The right to vote (or absence of thereof) remains one of the most significant differences in rights between citizens and non-citizens. It is also one of the most sensitive issues, as it cuts through issues of identity, Soviet legacies⁶⁷, and state allegiance, among others. Hence, in this section, I will focus mostly on the saliency of norms regarding 'citizenship policies,' as it relates to the question of voting rights.

The general pattern of support among Latvia's citizens relating to the question of whether non-citizens should be given the right to participate in municipal elections remained mostly the same since after Latvia became a member of the EU. While

⁶⁷ Officially, non-citizens are recognized as Soviet-era settlers. In more radical terms they are presented as 'occupants.'

public opinion remained almost evenly divided on the issue, the percentage of citizens supporting the idea, though by a narrow margin, prevailed over those who disapproved in all years, except 2012 (See Figure 6.1).

Figure 6.1: Public opinion polls among Latvia's citizens on whether non-citizens should be given the right to participate in municipal elections, 2003-2014.



Source: Market and Public Opinion Research Centre (SKDS) public opinion polls, 2003-2014⁶⁸.

Identity is an important factor influencing respondents' choices. In particular, ethnic affiliation seems to be directly correlated with citizens' preferences over suggested policy of granting non-citizens the right to vote. In 2005, for instance, support for the proposal among Russian-speakers amounted to 74.6%, while support among ethnic Latvians was only 24.8% (with 55.9% disapproval rate). A public opinion poll conducted by an independent research agency Latvijas Fakti (Latvian Facts) after the referendum on Russian language of 2012 showed, opposition against granting non-citizens the right to vote at municipal level among ethnic Latvians rose to 71.6% (the percentage of support, however, remained mostly the same: 24.7%). In contrast, support among non-ethnic Latvians for the proposal amounted to 93.8% (Telegraf, 2012).

⁶⁸ The courtesy of Ieva Strode, Project Director at SKDS, personal communication, 30 January 2017. 245

The 2012 results could be explained by the planned referendum on the status of Russian language in February 2012. Initiation of the procedures for collecting signatures for the referendum in November 2011 – four months before the opinion poll took place, awoken old-seated sensitivities regarding the endangered status of the Latvian vis-à-vis Russian language.

It could thus be concluded that no significant majority *for* or *against* the proposal to grant Latvian non-citizens the right to vote in municipal election exists. Even around 'important events' (such as the referendum on the status of Russian language of 2012), the ratio of citizens disapproving to those who were approving was 49/43. It could thus be expected that *salience* among citizens, in general, will not trump/determine the pattern of compliance. However, it would be premature not to take the opposition into consideration. Opposition to the proposal might affect governing coalitions, whose votes they are dependent on. In particular, XVII government under Dombrovskis II. The ruling coalition government was comprised of V, NA and RP parties, of which 79.9%, 95% & 54.2% of the electorate were against the initiative (Telegraf, 2012).

Domestic adjustment costs

In the aftermath of the 1994 & 1998 legal changes, corresponding institutions and procedures for naturalisation of non-citizens were established (Krūma, 2007: 82). According to the procedures, to be eligible for acquiring Latvian citizenship, non-citizens had to permanently residence in Latvia for five years, starting from May 1990, demonstrate command of the Latvian language, history, the national anthem, basic principles of the constitution and have a legal income. The specifications of the

language exam and the exemption of the elderly and people with disabilities were included (Solska, 2011). The Office of Citizenship and Migration Affairs (OCMA) was delegated the task of receiving and processing the applications for naturalisation. Thus, simplifying naturalisation requirements would not bear additional economic costs to the government (for the exception of providing language courses, in addition to the existing ones). It might, however, entail political costs, due to the potential opposition of interest groups to, for instance, widening the list of professions, where non-citizens are allowed to work. Additionally, the introduction of legislation, allowing non-citizens to vote in municipal elections would directly affect election outcomes. As is laid out in Table 6.3, following Hypothesis 2, given low economic and/or institutional costs, compliance with IO recommendations regarding citizenship policies is more likely. On the other hand, existing political costs of implementing the recommendations make compliance less likely.

Table 6.2: Key explanatory factors with regard to citizenship policies, and the resulting expectations for compliance

Citizenship Policies	H2: Domestic salience of norms	H3: Domestic adjustment costs	
		Economic and/or institutional costs	Political costs
Integration	Opinion evenly divided	Low	Yes
<i>Implementation</i>	--	<i>More likely</i>	<i>Less likely</i>
Naturalisation	Opinion evenly divided	Low	Yes
<i>Implementation</i>	--	<i>More likely</i>	<i>Less likely</i>

1.3 Post-accession compliance with international recommendations on citizenship policies

Formal Compliance

Naturalisation Provisions

International recommendations regarding naturalisation provisions post-accession have been partially met by Latvian government. Naturalisation requirements and its procedures remain hotly debated topics in and outside Latvia. Since the adoption of amendments to the Citizenship Law in 1998, naturalisation procedures have been modified a few times. Post-accession, among the most important changes, has been the adoption of the new *Citizenship Law of 2013* that further liberalised the procedure for registering newborn children as citizens. The law also broadened the scope of people who could apply for naturalisation.

In agreement with the newly adopted law, Latvian citizenship is granted automatically to children of stateless individuals and non-citizens, following the consent of one parent at the Civil Registry Office (earlier, consent of both parents was sought). According to the law, a child under the age of 15 who has not been registered as a citizen of Latvia at the time of the registration of their birth can be registered as a citizen with an application submitted by one of the parents. Between 15-18 years of age, a child can him/herself apply to be registered as a citizen. Despite the changes, the government fell short of meeting international recommendations in full and grant citizenship to newborn children *ex-lege*. Despite this, requirement for parents to make a pledge of loyalty when registering citizenship of the child of a stateless person or a non-citizen was removed (MFA/RL, 2015). The law also provides, as reported by the Ministry of Foreign Affairs, that "pupils who have acquired more than half of the

basic educational program in the Latvian language are exempt from all naturalization examinations and are registered as citizens upon submitting a naturalization application in accordance with the standard procedures" (MFA/RL, 2015).

A specific paragraph of the law deals with the Latvian language test and exemptions thereof. Namely, "the requirements of the Latvian language naturalisation test have been standardised and are in line with the requirements of the centralised language tests in educational institutions, be it Latvian or national minority schools" (MFA/RL, 2015).

The Citizenship Law 2013 also broadened the scope of people qualifying for naturalization. It gave former military personnel of USSR (Russia), who were previously ineligible for applying for naturalisation, the possibility to acquire Latvian citizenship by completing the naturalization procedure (MFA/RL, 2015). These amendments are presented as a part of a long-term effort on the part of Latvian government to promote societal integration. As it is stated on the *Ministry of Foreign Affairs* website, these Amendments attest to "yet another expression of Latvia's will and interest to further consolidate and integrate its society" (MFA/RL, 2015, para. 24).

While liberalising procedures for registering newborn children as citizens, some other provisions were toughened. In 2006, the time period needed before an applicant could re-take naturalisation examination (in case s/he failed the first one) was increased (Brands Kehris, 2010a). For language tests, this period was extended to 6 months, while for history and constitutional knowledge - 3 months. Also, an applicant can retake the exam a maximum of three times (Brands Kehris, 2010a: 102). Other provisions of the same package of amendments that are thought to be contrary to the facilitation of naturalization include (Citizenship Law 2013): (a) tightening the

census of uninterrupted living in Latvia before submitting the application (Section 12 (1)); (b) putting vague new criteria for strengthening the prohibitions to naturalize and entrusting evaluation of some of them to executive instead of court (Section 11); and (c) prescribing that a refusal by the Cabinet of Ministers or by the Prosecutor-General cannot be appealed against (Section 17(4) and Section 17(5)).

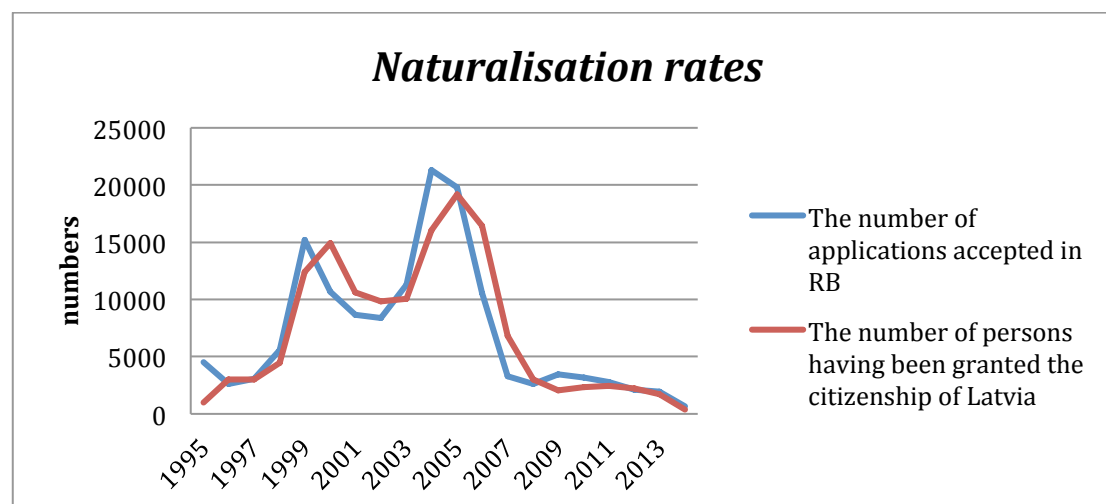
Provisions for the waiving of fees to particular categories of people have remained in place (since the referendum of 1998). In 2009, for the first time, the number of persons paying the full fee was fewer than half (Brands Kehris, 2010a: 103).

Similarly, the government failed to meet all international recommendations related to integration provisions. In the realm of differences in rights between citizens and non-citizens, some 60 differences in rights between citizens and non-citizens were abolished, but at the same time, 30 new restrictions were introduced in the post-accession period (Buzaev, 2013b). Regarding international recommendations to grant Latvia's non-citizens the right to vote at municipal elections, no changes were introduced.

Behavioural Compliance

Overall, while the total number of non-citizens dropped to 295 122 in 2011 and constituted 14.25% of the total population, the naturalisation process *per se* has slowed down since Latvia's accession to the EU (OCMA, 2011). Naturalisation rates had peaked twice – towards the end of the 1990s, when legislation was liberalised and in 2003 – before Latvia's accession to the EU (See Figure 6.2). In the period between 1995 and 2008, the percentage of non-citizens fell from 29% to 15.5% of the total population. In 2011, the number of non-citizens dropped to 295 122, which constituted 14.25% of the total population (Statistical Bureau/L, 1995-2008).

Figure 6.2: Naturalisation rates, 1995 – 2013.



The number of applications for naturalisation and naturalised citizens has been particularly high in the period preceding Latvia's accession to the EU and soon after its subsequent accession. The number of naturalised people peaked in 2005 when the number of naturalized people was 19169. In the following years the number of applications and naturalised people decreased to the pre-1998 level. Thus, even though the total number of the non-citizen population declined over the time, naturalisation process has significantly slowed down. In 2013, for instance, the number of naturalized was only 1732.

In June 2014, approximately eight months since the adoption of the amendments, a positive trend was observed - the number of newborn children (whose parents are both non-citizens), registered as Latvia's citizens has risen from 52% to 88% (MFA/RL, 2015). Despite these amendments, the Law fell short of recognising the newborn children of non-citizens as citizens of Latvia by default, as advocated by the UNHCR (2010, para. IV), OSCE High Commissioner on National Minorities (OSCE

HCNM, 2011), Council of Europe's Commissioner for Human Rights (CommDH (2007)9) and European Commission against Racism and Intolerance (CRI (2012)3, see recommendations above).

The largest proportion of naturalised citizens is of Russian ethnicity; this group has submitted 66% of all naturalisation applications in the 14 years since naturalisation started. This corresponds to their proportion among non-citizens of Latvia (on 1 July 2009 66% of non-citizens were Russian). Other ethnicities include Belarusians (10% of applications 13% of non-citizens 13%) and Ukrainians (9% of applications, 9.5% of non-citizens) (Brands Kehris, 2010a: 102).

Integration of non-citizens

(a) Narrowing the gap in rights between citizens and non-citizens

Post-accession period witnessed a change in rights, quantitative and qualitative, between citizens and non-citizens. In the realm of the labour market, the government abolished two restrictions on the ability of non-citizens to work in the public sector. In private sector, this number amounted to four. In other domains (public sphere - 2; property rights - 2; freedom of movement - 3; privacy - 1), the difference in rights between citizens and non-citizens amounted to eight. In total, however, restrictions have been lifted in 60 different cases. Those that have not been abolished by the government have been outdated (Buzaev, 2013b).

The government has also eliminated certain restrictions that were introduced in the pre-accession period. In public domain, these changes amounted to 10 (Buzaev, 2013b). These changes were proposed to promote effective political and economic integration of non-citizens (Brands Kehris, 2010a: 96). However, despite the changes, another 80 instances where non-citizens cannot enjoy the same rights as citizens remain. 30 of those were introduced in the post-accession period. In public job

domain, these newly introduced post-accession restrictions amounted to 10, private employment sector – 4, political and social rights – 8, private enterprise – 4, other rights and freedoms – 4 (Buzaev, 2013b).

The official position of the government is to eliminate the difference in rights between citizens and non-citizens through naturalization.⁶⁹ Generally speaking; however, the socio-economic rights of non-citizens, as well as their genuine and lasting links to the state have been recognized on separate occasions by the legislator, the judiciary⁷⁰ and the executive authorities (Brands Kehris, 2010a: 107).

(b) Voting rights

No changes were introduced to enable non-citizens to vote at municipal elections. The 1994 Law on Local Elections remained intact, limiting the participation of non-citizens in local elections (Kelley, 2004a: 76). Technically speaking, limiting participation rights to citizens only does not constitute a breach of international standards (Galbreath and McEvoy, 2011). This, however, did not prevent international criticism. Recommendations in this regard have nevertheless failed to bring fruits.

Hence, as is summarized in Table 6.3, compliance with international recommendations is not uniform. While the government failed to meet any of the recommendations in full, recommendations regarding naturalization provisions were

⁶⁹ The government is not interested in annulling all the differences in rights between citizens and non-citizens, as that, in government's perspective, would discourage non-citizens from naturalizing MFA/RL. (2015) Basic facts about citizenship and language policy of Latvia and some sensitive history-related issues. *Ministry of Foreign Affairs of Latvia* 12 November, 2015 ed. Latvia..

⁷⁰ The most recently contested difference was the right to pensions for the period worked on Soviet territory outside of Latvia. For Latvia's citizens, this period was included in the calculation of pensions. The same rule was not applied for non-citizens. The European Court of Human Rights found such a differentiated approach discriminatory, and the government proposed legislation that would exclude these periods for all in 2009; another contested right is the right to own land in the border areas Muižnieks N. (2010) *How Integrated is Latvian Society?: An Audit of Achievements, Failures, and Challenges*: University of Latvia Press.

partially met, while the government failed to address the longstanding recommendation to grant non-citizens the right to vote in municipal elections.

Table 6.3: Summary on compliance with of post-accession recommendations

		Full Compliance	Partial Compliance	No Compliance
Naturalization provisions	Increase naturalisation process, decrease the number of non-citizens		X	
	Revisiting naturalisation requirements		X	
	Free courses		X (setback)	
Integration of non-citizens	Narrowing the gap in rights between citizens and non-citizens		X	
	Voting at municipality level			X

1.4 Comparative conclusion: Process-tracing analysis

Comparison of implementation of international recommendations regarding citizenship policies shows, economic and/or institutional costs did not affect the pattern of compliance. Neither did we observe consistency on the outcomes of 'political costs' variable. Thus, for instance, the government adopted Citizenship Law 2013, further liberalizing procedure for registering new-born children, while not changing legislation on voting at the municipality level. However, a closer analysis of adopted changes shows, while liberalization of procedure for registering newborn children does not alter the structure of electoral base (newborns are not able to vote), allowing non-citizens to vote at municipality level does. It can thus be concluded that there is a correlation between vested political costs and the pattern of compliance with IO recommendations – *the higher the political costs, the fewer the prospects for compliance.*

Using process tracing analysis will help shed further light on resultant compliance

pattern, formal and behavioural, with post-accession recommendations. Of particular interest in this respect are the following questions: regarding the implementation of naturalization provisions, *why while simplifying some procedures, other requirements were toughened?* Additionally, *why has the pace of naturalization come to a virtual halt?* Concerning implementation of integration provisions, *what are the reasons for abolishing some differences in rights between citizens and non-citizens, while introducing others?* Secondly, *why the persistent international pressure to grant Latvia's non-citizens the right to vote at municipal elections fail to bring fruits?* These questions are going to be addressed in the following sections.

Naturalisation provisions

Non-citizenship: a non-issue?

According to national experts, simplified procedures for acquiring citizenship did not lead to real changes in the institution of non-citizenship. Under the current set of rules, the institution of non-citizenship and its reproduction has not been eliminated. While simplified procedures for registering new-born children of non-citizens as citizens of Latvia are widely recognized as a positive step, members of the *Latvian Non-citizens' Congress*, a body advocating for rights of non-citizens in Latvia, question the genuine intention of the government to prevent further reproduction of non-citizens in the country (Interview with Krivtsova, 26 March, 2015). As an indication of lack of government's commitment to eradicating further reproduction of non-citizens, Elizaveta Krivtsova pointed to the fact that there is still a possibility for a child to be registered as a non-citizen. Thus, domestically the latest Citizenship Law and the difference it made for Latvia's non-citizens was welcomed more cautiously.

If the Citizenship Law (2013) was not designed to simplify naturalization procedures

further and decrease the number of non-citizens, what was its purpose? Interviews revealed that the legislation mainly sought to address the need to sustain ties with citizens all over the world by allowing double citizenship (MFA/RL, 2015). The issue of non-citizens, according to Krivtsova, was "sneaked into the discussion to win over electorate from Harmony Centre" (Interview notes, 26 March, 2015). The insight into the process of debate and adoption of the new citizenship partially supports the statement. When being questioned on the main motive behind amendments to the citizenship law, vice-speaker of the Saeima Inese Lībiņa-Egner, one of the authors of the amendments to the citizenship law, stated,

"the initial law proposal was not as extensive as the final version, accepted by the Parliament (Saeima). Law authors' main objective was to extend the boundaries of Latvia's citizenship and strengthen links with its citizens, allowing for more cases for dual citizenship" (electronic correspondence with Lībiņa-Egner, 15 April, 2015).

Ms. Lībiņa-Egner recited that two law proposals were submitted in 2011 during the working period of the 10th Saeima: one by Unity parliamentary group, the other by National Alliance of All for Latvia! and For Fatherland and Freedom/LNNK parliamentary group. Besides, the 10th Saeima received a letter by the President with suggestions for the amendments to the Citizenship law.

"The president stated that fifteen years had passed since the original Citizenship law was accepted, and a new generation of citizens has been born in the independent Republic of Latvia. Now, when Latvia has joined some of the world's most influential organizations and unions, the current Citizenship law should be amended respecting the long-term interests of the state, and growing and developing Latvian citizenship" (electronic correspondence with Lībiņa-Egner, 15 April, 2015).

The Legal Affairs Committee of the 10th Saeima, under whose responsibility the proposal fell, decided to proceed with the suggestions made by Unity parliamentary group. At the same time, many of the suggestions echoed terms of the second proposal and suggestions by the president (electronic correspondence with Lībiņa-Egner). Overall, the committee held around 81 meetings during two years. Parallel to this, work process continued in the previously founded work group, carried out by respective ministries and organizations (electronic correspondence with Lībiņa-Egner, 15 April, 2015).

When and how were the provisions related to Latvia's non-citizens introduced into the discussion on draft legislation? Ms. Lībiņa-Egner recited that almost all parliamentary groups came forward with suggestions. Even if not all groups made direct suggestions, MP's of all parliamentary groups were represented in the specifically made Citizenship Law Amendments Subcommittee of the Legal Affairs Committee, characterised by active discussion process and intensive work with terms of the law (electronic correspondence with Lībiņa-Egner, *ibid.*). Particularly, regarding the course of granting citizenship to children who are born in Latvia after 21 August 1991 to stateless persons or non-citizens, suggestions were also received from various politicians. "After long and constructive discussions *a compromise was reached*, considerably easing the process of granting citizenship to the child who is born in Latvia after 21 August 1991 to stateless persons or non-citizens, supported by the majority in Saeima [emphasis added]" (electronic correspondence with Lībiņa-Egner, 15 April, 2015).

The process of amending the Citizenship Law took more than two years and had been described by the *Ministry of Foreign Affairs* as "two years of meticulous work" (MFA/RL, 2015). In his interview Janis Tsitskovskis, deputy director of the

Department of Citizenship and Immigration and chief specialist on citizenship, who was a member of the working group, stated that the process was exacerbated (or it is hard to arrive at a decision), due to the *lack of support* on behalf of political parties (Interview with Tsitskovskis, 27 March, 2015). Tsitskovskis recited,

"Each political party had its vision and opinion on how to proceed, which led to working group's drafting two proposals. After the draft proposal was submitted to the cabinet of ministers, it failed to pass even the first stage in the cabinet of ministers to go further to the Parliament..."

Mr. Tsitskovskis described the process of drafting the law as dynamic, where "...none of those [suggested] provisions were accepted [straight away]... We kept discussing [them] until the last moment". Some of the provisions were particularly controversial.

"...There was a discussion on conditions...for naturalisation...and whether we should provide them [non-citizen parents] with an option to apply for citizenship or status of non-citizens...for their new-born children... At some point, there was the only option for citizenship. Then, the option for non-citizenship also appeared... Then there was a discussion whether the conditions should be stricter or more liberal... it took quite a long to discuss..."

October 2011, upon the beginning of the working period of the 11th Saeima, saw unanimously agreed the decision to continue working with the law proposal, adopted from the 10th Saeima (electronic correspondence with Lībiņa-Egner, 15 April, 2015). Provisions regarding former military personnel of USSR (Russia) who "...were given the possibility to acquire Latvian citizenship by completing the naturalization procedure" (MFA/RL, 2015b, para. 22) was among the most controversial amendments. The issue of former military personnel could be related to the building blocks of Latvian post-independence political ideology. It is interesting that none of

the interviewees questioned on this matter, except Tsitskovskis acknowledged that there were legislative changes in this regard⁷¹.

The question of allowing naturalisation of former military personnel could have been a strong test for identity change, as the government had a very firm stand on the issue. However, interview with Mr. Tsitkovskis revealed that instead of representing a personal view or conviction of any of the politicians, legal experts and/or civil servants involved in the process, the issue carried 'a technical character.' That is, the introduction of the provision was an attempt to 'fix the technical mistake' that was done when the first citizenship law was adopted. Reflecting on this 'technical problem,' Mr. Tsitkovski said,

"Similar provision existed in the initial draft of the citizenship law, but during the amendment procedure in 1998 one part of the article was deleted without noticing that there was a reference to another article. Honestly speaking, it was a mistake of the parliament, because we did not find any discussions in the parliament that would imply that they wanted to delete exactly this article. However, because there was a reference from one article to another article, and they've deleted the article where there was a reference... so our office did not have a possibility to use this provision. There were discussions during the last amendments whether to adopt this provision, but finally, coalition managed to get agreement on this (Interview notes, 27 March, 2015)."

It was implicitly stated during the interview with Tsitkovskis that the number of people that could eventually be naturalised was one of the main focus points in the Parliament discussions. Tsitkovskis recited, "we were questioned by the parliament about how many people fall into this category, and we were constantly providing

⁷¹ It is important to note, however, that this right was granted only to former military persons, who are married to a Latvian citizen for at least ten years. There is also an exception for former Lithuanian and Estonian citizens (living in Latvia before the 1990s) or who were former Lithuanian and Estonian citizens. These people are also given right to naturalise (Interview with Tsitskovskis, 27 March, 2015)²⁵⁹

statistics on every provision... suggesting that few are..." When asked about the total number of people falling under this category Tsitkovskis replied, "I am not sure how many, but I would say few." Mr. Tsitkovskis also mentioned that among thousands of people who are former military servicemen, only few fall under this category. And overall, an application from those who are eligible does not exceed 5 per year (Interview with Tsitskovskis, 27 March, 2015).

"From my experience, the right combination is to include key experts from relevant ministries with one representative from each political party." In this way, Mr. Tsitskovskis explained, the working group would have an opportunity to hear if the parties are going to support the proposal from the onset on. "Otherwise, it is a waste of time," Mr. Tsitkovskis added. It is noteworthy that Mr. Tsitskovskis mentioned, "...quite often it was the case that there was a particular issue that they [political parties] voted for or against and after some months, when facing this issue again they said no. *There was a case that in some particular issues they changed their opinions* [emphasis added]."

From the narrative presented by Tsitkovskis, it could be concluded that actors did change their decisions, even though it is somewhat difficult to assess whether it was pure political bargaining or change in opinion. Some other interviewees shed a bit more light on the process of (legislative) policy making. In their interviews Igor Pimenov (23 March, 2015), long-time head of LASHOR, and Liesma Ose (16 March, 2015), advisor to the Minister of Education, also mentioned 'dialogue' between different parties (that is, governmental officials or institutions) as a way to persuade the other party to act in a certain way, by giving rational explanations ["...когда там можно кого то по уму что-то пытаться рассказать"]. But the chance to persuade someone, interviewees explained, depends on a person in the case. Making a

reference to the Minister of Education, Liesma Ose explained, some people in ministries are guided by facts and figures – and it is then when it is possible to change their opinions, by presenting evidence.

From the comments submitted by Pia Prytz Phiri (UNHCR’s Regional Representation for the Baltic and Nordic Countries) to Ms. Ilma Čepāne (Chairperson of the Legal Affairs Committee of Saeima) on the wording of Article 3¹ of the Draft Law on Amendments to the Citizenship Law (No.52/Lp11) regarding automatic acquisition of Latvian citizenship by children born in Latvia after 21 August 1991 to stateless persons or non-citizens (UNHCR (2013)092/ROBNC/2013)⁷² it follows that in the formulation of the Article 3¹ of the initial version of the draft provided for the automatic grant of citizenship to children at birth, if their parents are stateless or non-citizens. However, the wording of the Article 3¹, paragraph 1, of the Draft Law has introduced a requirement that one of the child’s parents submit an application for the child to be registered as a Latvian citizen, and removed the previous provision on automatic acquisition of citizenship at birth. In its letter, UNHCR urged the Legal Affairs Committee of the Saeima to amend the wording of Article 3¹ in line with the original formulation of the article. UNHCR also noted that this is the approach adopted by the majority of European Union Member States (UNHCR (2013)092/ROBNC/2013). Ms. Lībiņa-Egner described the process as follows:

“During the working process with the law proposal, Saeima received comments and recommendations from international organizations, such as UNHCR and OSCE HCNM. Suggestions of both of these organizations were directed towards improvements to Article 3¹ of Citizenship law, which stipulates the process of descendants, born after 21 August 1991 to stateless persons on non-citizens, should be granted the citizenship of Latvia...

⁷² Letters are courtesy of Inese Lībiņa-Egner and Janis Tsitskovskis

suggestions *were also received from various politicians*. After lengthy and constructive discussions *a compromise was reached*, considerably easing the process of giving citizenship to the child who is born in Latvia after 21 August 1991 to stateless persons or non-citizens, supported by the majority in Saeima [emphasis added]" (Electronic correspondence with Lībiņa-Egner, 15 April, 2015).

It follows that 'internal intervention' by some politicians did play a role in changing the wording of Article 3¹ of Citizenship law, leading to the eventual introduction of the requirement that one of the child's parents submit an application for the child to be registered as a Latvian citizen. Additionally, we can conclude that international pressure failed to bring fruits.

However, the chief specialist on citizenship at the Department of Citizenship and Immigration - Janis Tsitskovskis, who was a member of the working committee, in his interview said, "...at the time when proposal to grant new-born children with citizenship *ex lege* was discussed, our office [Department of Citizenship and Immigration] received a number of complaints from those parents of non-citizen children, who insisted on having an option of applying for status of non-citizens". Mr. Tsitskovskis added that this was supported by a survey conducted by their office. According to the survey, about 15 percent of non-citizen parents, at that time, expressed the opinion that they would like to apply for the status of non-citizen (Interview notes). According to Mr. Tsitskovskis, one of the main motivations behind this insistence was a visa-free regime with Russia and other former Soviet Republics for Latvia's non-citizens. The government left the option for non-citizen parents to register their newborn children as citizens up to the age of 15. From the age of 15-18, the child has to do it by him/herself. After the age of 18, the person would have to go through naturalisation procedure (Interview notes, 27 March, 2015).

It is noteworthy that Ms. Lībiņa-Egner and Mr. Tsitskovskis gave different accounts of the process (and the role of international organisations in it) not only in the case of new-born children but also the case of elimination of provisions regarding the pledge that the parents were supposed to make to assist their children in learning Latvian. Ms. Lībiņa-Egner suggested that Saeima abandoned the requirement for a pledge to promise to teach Latvian, respect and pay allegiance to the Republic of Latvia by making a reference to "suggestion...of both international organisations [UNHCR & OSCE HCNM]." Mr. Tsitskovskis, on the other hand, while describing the process of drafting the law on citizenship, said that authorities tried to take international recommendations into consideration, even though that did not change "...the initial approach...dramatically...", as "...it was also our [department's] initial intention to deal with this issue in a way" (Interview notes). Minister of Foreign Affairs and the Department of Citizenship and Immigration have been 'lobbying' for removal of these provisions from the text of the law, one of the reasons being – there are no real legal consequences for not following the requirements of the pledge. Just moral consequences (electronic correspondence with Tsitskovskis, 29 May, 2015).

The difference in presented accounts is not surprising, however, and can stem from several factors. First, in Ilona's words, while state departments are engaged in policy-making, Saeima deputies are doing politics. It is also understandable that politicians might be more prone to make 'international connections' while accounting for their decisions. Civil servants, on the other hand, are freer to express their opinions and have an unpopular view on how things should be dealt with, as that does not put their seats under a risk.

Unlike civil servants, representatives of NGO sector were also keener on making international connections. They suggested that international pressure [from OSCE

HCNM and UNHCR] was imperative to make Minister (of Foreign Affairs) object to introduction of restrictive measures (Interview with Krivtsova, 26 March, 2015) and in not including these provisions [of pledge] into the final Law (Interview with Djačkova, 17 March, 2015). Ministry of Foreign Affairs was referred to as a channel of influence of Latvian politics for IOs (Interview with Krivtsova), whereas the resultant law an “ultimate (workable) compromise” [возможный компромисс].

Interestingly enough, on its website *Ministry of Foreign Affairs (MFA) of Latvia* reports that “the Amendments also simplify the requirements regarding permanent residence for the naturalization applicants, removing the requirement for uninterrupted residence in Latvia” (MFA/RL, 2015: para 23). Krivtsova explained, “MFA likes to gloss over some facts to *look good in the eyes of the international community*” (Interview with Krivtsova, 26 March, 2015).

Hence, every department/sector presented a picture that was representative of their broad vision and working. Ms. Lībiņa-Egner, for instance, highlighted the role of politicians and international organizations, while for Mr. Tsitskovskis it was more a legalistic and technical issue to be solved. Moreover, even though Mr. Tsitkovskis did interact with IOs, his general position was of ‘representing one's outlook on things.’ Internal disagreements among politicians on the content of final provisions led to the introduction of some other restrictive measures (Interview with Krivtsova, 26 March, 2015). Hence is the introduction of contradictory changes.

To summarise, the initial aim of amending the Citizenship Law was not to ease naturalization procedures. The presence of different interests and heterogeneity of political spectrum fostered insertion of naturalization-related provisions into the draft law. The account above sheds light on the role of various governmental agencies, as well as MPs that were lobbying for the adoption of these changes. Also, the change

in opinion did take place, which means that either normative suasion or persuasion (altering cost/benefit calculations) were effectively applied. In fact, this points to the effectiveness and viability of internal deliberative processes. Lastly, rather than serving as evidence for a change in identity/belief system, amendments in the provisions regarding former military personnel were pure 'correction of the technical mistake' made earlier.

Naturalisation stall: Latvia's 'Brighton Beach' case?⁷³

As has been shown in this chapter, the total number of non-citizens has decreased over time, while naturalisation process has slowed down and came to a virtual halt. This section focuses on the explanation of why *the pace of naturalization has come to a virtual halt*.

While the increase in a number of applications and naturalised people around the date of Latvia's accession to the EU are explained by economic gains and other advantages associated with the EU membership (labour mobility) (Galbreath and Muižnieks, 2009), the slowdown of the process is attributed to internal/personal and external factors. The peak of the number of naturalised people was in 2005 when the number equaled to 19169. This is mainly attributed to the benefits (economic & free movement) that EU membership was believed to bring along (Interview with Aldermane & Stalidzane, Vinnika, 24 March, 2015; MFA/RL, 2014). In subsequent years the number of applications and naturalised people decreased to the pre-1998 level. In 2013, for instance, the number of naturalized amounted to 1732 only, while the total number of non-citizens was 297883 (Muiznieks et al., 2013: 293). The number of applications has witnessed a similar decrease. In 2013 *Office of Citizenship*

⁷³ 'Brighton beach,' an Oceanside neighborhood in the southern portion of the New York borough of Brooklyn. It became a popular immigration destination among Soviet citizens from the mid-1970s. Anecdotally, it is known in the post-Soviet space as a region of the New York, compactly settled by Russian-speakers, who do not have to speak English to get by on a daily basis.

and Migration Affairs received only 1939 applications, while this figure was 19807 in 2005. Naturalisation, however, is not the only factor that affected the total population of Latvia's non-citizens. As Brands Kehris (2010b: 100) notes, emigration from Latvia and death contributed to the largest decrease in numbers of non-citizens. For instance, when in 2012 2213 persons were naturalized, the number of non-citizens has fallen by 14,306 (OCMA, 2012). The number of Latvian non-citizens residing abroad in the second half of that year has grown by only 232 (OCMA, 2012).

Almost all of the interviewees mentioned benefits related to the EU-accession (free movement, possibility to work in other EU states) as one of the motivating factors that led to a drastic increase in the number of naturalisation applications (Interview with Krivtsova, 26 March, 2015, & Tsitskovskis, 27 March, 2015). The high number of naturalisation applications right after 2004, on the other hand, is explained by the phenomenon of 'pre-accession inertia' (Interview with Kryvsova, *ibid.* & Tsitkovskis, *ibid.*). Interestingly enough, accession to the EU is also given as an explanation why the numbers decreased ever since. It is thought that the opportunity to freely travel within Schengen area is considered to be enough for those non-citizens who do not feel discontented by the lack of political rights (Aldermane in Telegraf, 2007).

The topic of lack of interest for naturalization has been subject to a few qualitative surveys: by Brande Kehre and Ilona Stalidzane in 2003 under the auspices of the *Naturalisation Board of the Republic of Latvia*; by *Secretariat of the Special Assignment Minister for Social Integration of the Republic of Latvia* (2008); by *Marketing and Public Opinion Research Centre* (SKDS) in June and July 2007. All of the three surveys have been systematically analysed and presented in a joint publication by Ivlevs and King (2012). Interviews conducted during the fieldwork with Ilona Stalidzane, head of the *Projects and Society Integration Division* in Riga

City Council; Ejzhenija Aldermane, former long-term chairman of the *Naturalisation Board*, currently chairing the *Committee on Education* in Riga City Council; Janis Tsitkovskis, deputy director of the *Department of Citizenship and Immigration*; Vladimir Sokolov, chairman of the *NGO Union of citizens and non-citizens*; and Elizaveta Krivtsova, member of the *Congress of non-citizens* largely confirmed the findings of Ivlevs and King (2012). Namely, the intensity of the process of acquiring citizenship has been affected by *internal* (personal & psychological (Muiznieks et al., 2013: 293) and *external* factors (MFA/RL, 2014, para.2). Most frequently cited internal (and personal) reasons among the non-citizens include, (a) rejection of the whole idea of naturalisation as a “form of protest” (Ivlevs and King, 2012: p 5), (b) relatively costly process of naturalization and (c) insufficient knowledge of Latvian language and history to pass the exam. External reasons range from the visa-free regime with the EU, Russia and to other CIS states (Interview with Tsitskovskis; Ivlevs and King, 2012: 7).

Comparison of survey results shows, there has been a shift in the reasoning behind not using the option of naturalization. The shift in preferences has been party shaped and reshaped by party political discourse. In 2003, 34% of non-citizens replied that they did not use the possibility to naturalise because they considered that they had an automatic right to Latvian citizenship. In 2007, 44% of surveyed responded that they did not see the necessity to do so (Ivlevs and King, 2012: 7). Ms. Aldermane explained that more radical populist right-wing parties created a negative discourse about the alleged connection/association between/of non-citizens to Russia that, according to the narrative, presents a threat to Latvia. This discourse estranged non-citizens from the political life of the country. In addition to this, as Ms. Aldermane put it, more ‘radical leftist’ parties have also fed into the discourse by telling their

electorate that they are being talked badly about (Interview notes, 24 March, 2015). Ms. Stalidzane (Interview notes, 24 March, 2015) added that radical leftist parties have occasionally promised non-citizens to attain the right for receiving automatic citizenship, which added up to the situation. Divided mass media, according to Tsitkovskis, only exacerbated the situation, as "Russian-speaking population listens, reads and watches Russian media... which reported nothing pleasant...about Latvian citizenship policy and attitudes towards non-citizens. Hence, people feel to some extent betrayed and mistreated." Hence, some non-citizens believe that citizenship should be given automatically (a point reiterated by Sokolov and Čigāne, interview notes), which Mr. Tsitkovskis describe as being a "form of protest" (Interview notes, 27 March, 2015).

Change in demographics also affects the pace of naturalization. Older generations can find it harder to learn Latvian, for instance. This view, in part, is supported by 2003 surveys, where 26% of respondents expressed their hope that the process of naturalisation would be simplified. In 2007, while 37% of respondents said they did not plan to acquire Latvian citizenship, due to insufficient knowledge of Latvian, whereas another 29% stated that they did not have time to do the necessary formalities (Ivlevs and King, 2012: 7).

The lack of interest on the part of some non-citizens to naturalise is attributed to satisfaction and/or acceptance of the *status quo*. Mr. Tsitkovskis (Interview notes, *ibid.*), for instance, stated, "most of the non-citizens...especially those who are older than 50... 25 years ago they were young and had a greater opportunity to change something... now at the age of 50-60, why should you change anything?" Indeed, the demographics of the Latvia's non-citizens show that the majority of non-citizens are over 50 years of age (The Office of Citizenship and Migration Affairs, 2014). The

account presented by Mr. Tsitkovskis was echoed in Ms. Vinnika's view on the issue, who suggested that the case of non-citizens represent Latvia's Brighton beach case (Interview notes, 24 March, 2015). Ms. Vinnika suggested, the vast majority of Latvia's non-citizens 'live out' their days without having high expectations regarding integration into the broader Latvian societal culture. The lack of interest in applying for Latvian citizenship is explained by Krūma (2010: 42-43) in terms of the feeling of comfort on an everyday basis and the low level of prestige of Latvian citizenship among non-citizens. It is also generally believed that political rights are not very important for Latvia's non-citizens (Interview with Tsitskovskis, 27 March, 2015).

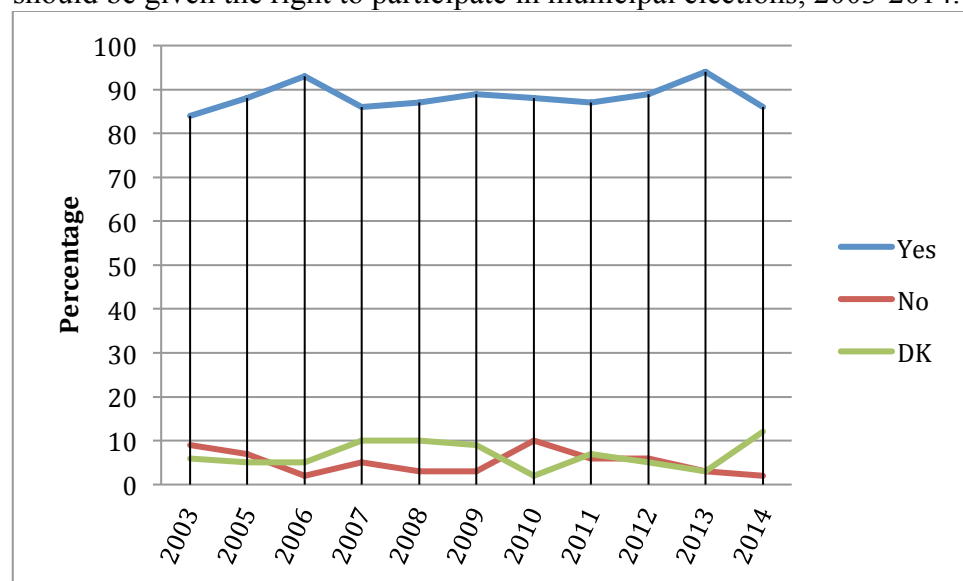
The view that non-citizens are content with the *status quo* is somewhat dubious. According to consecutive surveys conducted by the *Office of Citizenship and Migration Affairs*, less than 2% of respondents do not wish to acquire citizenship, while around 50% lack the confidence to go through the procedure or do not have adequate information to do so (ACFC/OP/II (2013)001). Notwithstanding the low number of applications, the number of naturalization among those who apply for is high (MFA/RL, 2014). An average of 40% of applicants fails the required language examination (ACFC/OP/II(2013)001). Hence, lack of Latvian language skills and knowledge of history among non-citizens remains a problem.⁷⁴ Latvian public opinion 2008 survey indicate that only 47% of non-Latvians use the state language readily, while 78% of Latvians have command of the Russian language (Plakans, 2009: 524). The failure of non-citizens to pass exams is not officially attributed to the level of difficulty of history and language exams, as "the level of required language

⁷⁴ For history exams, the failure rate of below one percent in 2000 has over time increased to over ten percent, and in the last two years even to 18%. The failure rates for language exams were always relatively higher, starting in the same period at about 10%, but increasing to 20% in since 2006, and reaching an all-time high of 39% in 2009 (Kehris, 2010, p 102)

proficiency corresponds to the Common European Reference Framework for Languages rating B1, basic knowledge” (Brands Kehris, 2010b: 102).

The conviction that political rights are of little importance to non-citizens should be treated with caution. As has been demonstrated by public opinion surveys, conducted by the Market and Public Opinion Research Centre (SKDS) from 2003-2014 (See Figure 6.3), the percentage on non-citizens who either believed that non-citizens should not be given the right to vote in municipal elections or were not sure about whether they should, together, had never exceeded 15% of the total non-citizen population.

Figure 6.3: Public opinion polls among Latvia’s non-citizens on whether non-citizens should be given the right to participate in municipal elections, 2003-2014.



Source: Market and Public Opinion Research Centre (SKDS) public opinion polls, 2003-2014.

It could thus be concluded that at least for the majority of non-citizens, the lack of interest in political rights is not a question. Importantly, a closer look into the availability of financing for language courses for non-citizens, and the procedures for naturalization, in general, offers a plausible explanation for the naturalization stall.

Cuts in international funding for naturalization procedures had negatively affected the pace of naturalization. In the aftermath of cut in foreign funding, some of the

regional naturalization offices were closed down (Interviews with Kryvtsova, 26 March, 2015 & Grigule, 26 March, 2015) and the number of free language courses has decreased (ECRI(2013)41). The failure of the government to 'compensate' for loss of international funding could be possibly explained by the lack of commitment on the part of the government to deal with the issue of integration of non-citizens into Latvia's society.

Importantly, the gradual disappearance of the subject of non-citizens from political discourse added up to the existing disinterest to deal with the question of citizenship (Interview with Kažoka, 27 March, 2015).

Another popular explanation is given with reference to the role of the kin-state, Russia, as yet another factor affecting the process of naturalization (Interview with Čigāne, 23 March, 2015). On June 18, 2008, Dmitry Medvedev, acting president of Russia at the time, has signed a decree that established visa-free travel to Russia for former Soviet citizens currently living in Latvia, who have not obtained another country's citizenship. In contrast, all Latvian citizens need to get a visa to travel to Russia. Additionally, Russia encourages Latvia's non-citizens to receive Russian citizenship (Interview with Krivtsova & Tsitskovskis). Despite the popular belief, the percentage of people for whom traveling to Russia constituted of utmost importance is low. According to Naturalisation Board 2007 survey, 8.6% of the respondents said non-citizen status made it easier for them to travel to CIS (Krūma, 2010)⁷⁵. The option of receiving a Russian citizenship, however, becomes more appealing. In 2009, for example, the number of non-citizens applying for Russian citizenship (2706) exceeded the number of non-citizens acquiring Latvian citizenship (2080) (Krūma, 2010).

⁷⁵ This number, according to the survey conducted by Secretariat of the Special Assignment Minister for Social Integration (2008) equals 10% (Ivlevs and King, 2012: p 7). 271

To summarize, the pace of naturalization of non-citizens in Latvia has been affected by a few factors – internal, external; personal & systemic. First, a certain proportion of non-citizens does not want to or is not able to naturalize for personal reasons, ranging from psychological (prestige, the feeling of injustice, etc.) to pragmatic reasons (travel opportunities to Russia, etc.). On a systemic level, both near disappearance of the issue from political discourse and the failure of the government to compensate for the loss of international funds to maintain naturalization boards, for instance, point to the lack of commitment on the part of the government to resolve the issue. Related to this, inaccessibility or cut in international funding has had a negative effect.

Integration provisions

Voting rights

As has been elaborated in Chapter V, the issue of citizenship rights has gradually lost its political prominence after 2006, with the closing of the 8th Saeima. The number of proposals related to citizenship issue amounted to 21 in the 8th Saeima. This number has significantly decreased afterwards. The majority of proposals to grant Latvia's non-citizens the right to vote in municipal elections came from FHRUL party (on 16/09/2004; 24/09/2004; 06/03/2008; 11/09/2008; 10/12/2009, among others). The wording of FHRUL's proposals was usually quite straightforward, such as "to grant citizenship to all residents who were born in Latvia" and "to grant non-citizens voting rights in municipal elections."

Importantly, new avenues to exert pressure on the Latvian government are sought at different levels of governance by individuals and political parties. Thus, for instance, on June 20, 2007, the MEP from Latvia Tatyana Ždanoka (Latvia's Russian Union)

submitted a petition on granting Latvian non-citizens the right to vote in municipal elections to the European Parliament Committee on Petitions. In another petition to the EU Parliament on May 13 2008, Harmony called members of the European Parliament to "widen political rights of permanent residents of the European Union and to give all permanent residents of the EU regardless of citizenship, including Latvian citizenship the right to vote." In this regard, in its resolution of 22 April 2009 on the deliberations of the Committee on Petitions during the year 2008 (2008/2301(INI)), the European Parliament has noted the following:

[European Parliament]...[i]s concerned by the large number of petitions received by the Committee on Petitions seeking voting rights for resident 'non'-citizens of Latvia in local elections; recalls that the United Nations (UN) Human Rights Committee, the UN Committee on the Elimination of Racial Discrimination, the Parliamentary Assembly of the Council of Europe, the Congress of Local and Regional Authorities of the Council of Europe, the Commissioner for Human Rights of the Council of Europe, the European Commission against Racism and Intolerance and the Parliamentary Assembly of the Organization for Security and Co-operation in Europe have recommended that non-citizens should be permitted to participate in local elections; urges the European Commission to closely monitor and encourage the regularisation of the status of 'non'-citizens in Latvia, many of whom were born in Latvia (2008/2301(INI), paragraph 15)

In the following section, the resolution further notes that

...many petitions received by Parliament from individuals and associations largely concern matters which do not constitute an infringement of Community law and which should therefore be resolved by exhausting all legal avenues of redress existing in the Member States concerned; further notes that, once all appropriate action has been taken at national level, the appropriate appellate body is the European Court of Human Rights

(2008/2301(INI), paragraph 16).

The number of applications to the European Court of Human Rights is almost non-existent in this regard. Among the most famous judgments in this regard are the cases of *Ždanoka v. Latvia* (2004) (on Article 3 of Protocol No 1: the right to free elections), *Petropavlovskis v. Latvia* (2015) (on Articles 10, 11 and 13 of the Convention: arbitrary refusal of Latvian citizenship through naturalization). In neither of the cases has the Court found a violation of rights. This tool is yet to be effectively instrumentalised by Latvian population.

Interestingly, after the accession of Latvia to the EU, some political parties (e.g. ZZS & LPP/LC) have openly suggested that Latvia would have to eventually grant non-citizens voting rights, in line with EU recommendations. Eventually, in 2007, LPP/LC proposed holding a referendum on the issue. However, "ideological considerations" (Cianetti, 2014: 99) in the form of fear of losing trust of the Latvian electorate pushed the party towards abandoning the idea. More moderate parties on Latvian political landscape are reluctant to take an openly pro-minority stance or enter into the coalition of the so-called leftist parties, due to their possible exposition to nationalist criticism by right-wing parties (Cianetti, 2014: 99).

On the other hand, there also more pragmatic reasons for hesitation on the part of ruling coalition partners not to be willing to grant non-citizens the right to vote in municipal elections. In her interview (on 23 March, 2015), Lolita Čigāne explained why the government "could not" meet international recommendations regarding voting rights. As Ms. Čigāne put it,

“...we cannot extend the voting rights both in municipal and national elections to non-citizens ...because then our political process would be completely different. We just need to safeguard it. So we are not going to do it, and it is a longstanding recommendation that is most likely... well, in the

nearest future... not going to be implemented."

In general, voting rights are associated with attempts to preserve political status quo, as by granting the right to vote to everyone the government risks altering political scene in the country. There is a real possibility that Riga and other regions, where there are compact Russian settlements could be lost to 'minority parties.' In this case, there might be changes at the national level as well. Representative of Russian-speaking parties (by gaining required number of seats in the Saeima) could easily block adoption of the strategically important issues (Interview with Berdnikov, 24 March, 2015). Hence, political costs of compliance with international recommendations in this regard keep the issue in a stalemate.

Narrowing the gap between the rights

Interestingly, the proposals make the linkage to the issues that are not of concern to Latvia's non-citizens only. For instance, on September 14, 2006, Harmony Centre submitted a draft law in the Saeima, which stipulated granting Latvian citizenship automatically to those residents of Latvia who have suffered under Nazi and Stalin's regimes (LCC, 2006b).

The Labour market is one of the regulatory channels of what Hughes (2005) called 'regime of discrimination' in Latvia, whereby a certain portion of the population is restricted in access to some professions. The stated reason for reserving certain jobs for citizens is "national defense," although as Dobson and Jones (1998: 40) note, even the Latvian Human Rights Office found itself unable to defend the inclusion of some of these jobs (LNHRO, 1996a). A lot of restricted occupations are concentrated in the large cities, where the non-ethnic Latvian, and non-citizen population is the highest (Dobson and Jones, 1998: 40). In 1995, only about two-thirds of the Russian-speaking population tested for knowledge of the Latvian language have passed the

exam (Dobson and Jones, 1998: 42). Although ambiguous, the Latvian government's policy exhibits an increasing emphasis on maintaining the dominance of ethnic Latvians through assimilation and restrictions on the freedoms of non-citizens, one aspect of which is employment discrimination (Dobson and Jones, 1998: 45). This view was reiterated by Irina Vinnika, who had been monitoring the differences in rights between citizens and non-citizens, also stated in her interview that restrictions in labour market exist not for their political, but economic importance. They reflect interests of economic groups, who are not willing to share resources, where possible. These are usually professions with a very narrow field of activity or professions of high income, such as notaries (Interview notes, 24 March, 2015).

Thus, changes in restrictions over employability of non-citizens in certain professions could be explained by systemic considerations. As government exercises a full monopoly over the definition of what it considers as falling under the category of "national defense," it can make changes where the shortage of labour is particularly acute.

To summarize, comparison of compliance pattern with citizenship policies reveal the importance of vested political costs, while no causal relationship between salience of issues domestically and institutional/economic costs on implementation pattern of related recommendations in this regard was observed. On the other hand, bottom-up processes taking place at the level of European institutions are in their infancy. Domestic political channels are still the dominant channels through which related concerns are channeled and 'uploaded.'

2 Linguistic policies: Recommendations, Challenges, Compliance

2.1 International Recommendations post-accession

In the realm of Latvia’s linguistic policies, post-accession recommendations could be clustered into two broad categories. The first one encompasses *legal framework, policy and practice regarding the use of languages* (Articles 4, 10, 12 & 14 of the FCNM) in public and private spheres. Second category concerns *dissemination of information in minority languages* (Articles 9 & 10 of the FCNM).

Summarized in Table 6.4, IO recommendations with regard to the *legal framework, policy and practice regarding the use of languages*, encouraged Latvian authorities to (a) provide national minorities with adequate training of Latvian language (ECOSOC (2007) E/C.12/LVA/CO/1; ACFC/OP/I(2008)002; ACFC/OP/II(2013)001; UN (2014)CCPR/C/LVA/CO/3), (b) without impeding training of minority languages (CRI(2008)2) and providing adequate teaching of thereof (CRI(2008)2; ACFC/OP/I(2008)002; CRI(2012)3; UN (2014)CCPR/C/LVA/CO/3) and (c) to facilitate integration and prevent (language based) discrimination in labour market (CRI(2008)2; ILC.100/III/1A). Accordingly, full effective compliance with the outstanding recommendations would require the following measures to be taken and policies implemented:

Table 6.4: IO recommendations and indicators of formal and behavioural compliance with linguistic policies: use of languages in public and private spheres

	Formal Compliance	Behavioural Compliance
Use of languages in public and private spheres	(a) Providing free training for learning Latvian to the general public and minority schoolchildren	The number of people (the percentage of total population) mastering Latvian should increase. Minority schoolchildren should be able to speak Latvian by the time they graduate from secondary schools.
	(b) Providing opportunity for minority schoolchildren to study in their languages at pre-school (ACFC/OP/II(2013)001); primary and secondary school levels Quality of education offered in minority language schools should not be lower than in other schools (ACFC/OP/I(2008)002; ACFC/OP/II(2013)001)	Availability of schools providing education in minority languages The results of general unified examinations should be similar to children in minority and majority schools.

	<p>(c) The government should clearly define what constitutes ‘legitimate public interest’ and language proficiency requirement should be applied for those professions only (OSCE HCNM, 2011; CRI(2012)3; CoE (2012)XX-1; UN (2013) A/HRC/23/37/Add.1; ACFC/OP/II(2013)001; UN (2014) CCPR/C/LVA/CO/3)</p> <p>Modification of language control mechanisms (ACFC/OP/I(2008)002; OSCE HCNM, 2011) in favour of more constructive and incentive based approach (ACFC/OP/II(2013)001).</p>	<p>In principle, once ‘legitimate public order’ is defined and the related list of professions is presented, the list of professions requiring Latvian language proficiency should not be widened (ACFC/OP/I(2008)002). Language control mechanisms minimal requirement: stable fine scheme</p>
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Secondly, international community highlighted the importance of maintaining the use of minority languages in (a) media (ACFC/OP/I(2008)002; CRI(2012)3), (b) public space (UN (2006)CRL/C/LVA/CO/2; ACFC/OP/I(2008)002; ACFC/OP/II(2013)001), and (c) in relation to administrative authorities (including written communication) (PACE (2006)1527; CommDH(2007)9; (provide interpreters) ECOSOC (2007)E/C.12/LVA/CO/1; ACFC/OP/I(2008)002; (establish clear standards) ACFC/OP/II(2013)001; UN (2014) CCPR/C/LVA/CO/3) (see Table 6.5).

Table 6.5: IO recommendations and indicators of formal and behavioural compliance with linguistic policies: maintaining the use of minority languages

	Formal Compliance	Behavioural Compliance
Maintaining the use of minority languages	(a) maintaining the use of minority languages in media	
	(b) disseminating public information in the language of minority nationals	Disseminating public information in the language of minority nationals. Such information encompasses a broad spectrum of topics, such as electoral information.
	(c) Provide opportunity through legislation or directives to communicate with officials, including written communication, in minority languages.	<ul style="list-style-type: none"> - provide interpreters - adopt more flexible approach towards the monitoring system of the implementation of the Law on the State Language (ACFC/OP/I(2008)002) - develop clear standards and implementation procedures on when the use of minority language is permitted (ACFC/OP/II(2013)001).

2.2 The nature of challenge

Background: pre-accession changes

In 1989, the Saeima proclaimed Latvian as the only official language in the Republic.⁷⁶ The amended Law of 1992 stipulated the usage of Latvian language (as well as other languages, to the extent required by their professional duties) by all employees in state and private institutions, enterprises and organizations. Further amendments to the Language Law (1998) put restrictions on the use of minority languages in public and private institutional domains and introduced a requirement for electoral candidates for the parliamentary and local elections to demonstrated highest proficiency of state language (Kelley, 2004a: 76). It did not take long for the international community to react.

International pressure in the form of IO conditionality (OSCE, CoE, EU, and NATO in particular) bore fruit (Solska, 2011). Following the pressure, the new President, Vaira Vike-Freiberga requested reconsideration of several of its paragraphs (Galbreath and Muižnieks, 2009: 139; Kelley, 2004a: 83). The law was eventually amended in December 1999, easing regulations regarding the use of language in private sector and further abolishing language proficiency requirements for electoral candidates in 2002. While these measures brought linguistic policies "essentially in conformity with Latvia's international obligations and commitments" (OSCE HCNM, 1999, para.2), they were undertaken at the expense of strengthening other provisions

⁷⁶ During the Soviet era, Latvian and Russian were the two official languages in Latvia. However, Russian was the language of interethnic communication and dominated in certain economic sectors and the public sphere. Knowing and speaking Russian assured the upward social mobility as well (Ivlevs & King, 2014). As a result, ethnic Latvians became mostly bilingual, while Russian speakers remained overwhelmingly monolingual (Schmid, 2008). To a large extent, this linguistic cleavage was exacerbated by the linguistically (self-)segregated education system (Pavlenko 2011): ethnic Latvian pupils went primarily to schools with Latvian language of instruction, while pupils of Russian, Belarusian, Ukrainian and other ethnic origins went primarily to schools with Russian language of instruction (Björklund 2004; Silova, 2006). In the school year 1989–1990, 53.3% of all school children were ethnic Latvians (Grenoble 2003 in Pavlenko 2011), and of these only 0.9% were educated in Russian-medium schools.

sanctioning the use of Latvian language in the country – in April 2002, the Saeima approved Latvian as the parliament's working language (Interview with Cilevičs, 2 April, 2015).

At the same time the 1999 law introduced the following provisions: first, private employers received the opportunity to determine the necessary level of the state language knowledge for their employees. Second, the law sanctioned private institutions, enterprises and NGOs to publicly display information in other languages, along with the state language. Third, unlike in the initial law, the amended law allowed for renewal of the state language proficiency certificate any time within the year following the examination, in case it was lost or stolen. At the same time, inspectors of the State Language Center were no longer able to annul state language proficiency certificates. Nevertheless, information related to 'legitimate public interests' had to be translated into state language.

Another battlefield related to the usage of minority languages was in the sphere of education. While ensuring the right to education in minority languages, the 1991 Education Law required mastery of the Latvian language in all education institutions regardless of the instructional language or school administration. One of the main education tasks became gradual Latvianization of minority education institutions, by

- (a) increasing the number of Latvian language classes in non-Latvian schools;
- (b) introducing obligatory Latvian language exams for high school graduates, requiring all teachers to pass the highest level of the language test;
- (c) introducing Latvian as the only language of instruction in state-financed higher education institutions;
- (d) prohibiting the use of textbooks published outside of Latvia (Silova, 2006b: 111).

The next two amendments to the law in 1995 and 1998 aimed for an eventual transition to Latvian-only secondary schools by 2004.⁷⁷ The 1995 amendments introduced the requirement that two subjects in minority primary schools (grades 1-9) and three subjects in minority secondary schools (grades 10-12) are taught in the Latvian language beginning from September 1996. This amendment sought to help children excel at speaking Latvian. In 1998, the amendments called for Latvian to become the primary language of instruction in all state-funded secondary schools. It stipulated that at state and municipal education institutions instruction shall be in the state language.⁷⁸ The law stipulated that “state-financed secondary education would only be available in the Latvian language starting from 2004, while primary education would be reformed through the introduction of transitional bilingual education programs in minority schools” (Silova, 2006b: 112).

During the same year, to fulfill these objectives, the government adopted a minority education reform that aimed for the transition to Latvian-only secondary education by 2004. The actual implementation of the reform started during the same year (1998) in primary schools (grade 1-9) only (Ivlevs and King, 2014b). The reform had no enforcement mechanisms. Minority primary schools were offered four models that differed in the proportions of language instruction and speed of implementation. Alternatively, primary schools could present and use their own models (Ivlevs and King, 2014b). This innovation was not met with opposition from the public, due to its flexibility and the gradual nature of reform (Schmid, 2008). For secondary schools

⁷⁷ In December 1996, another regulation was passed. The regulation envisaged Latvian language certification at the highest level for educators in Russian and minority schools, regardless of the level of Latvian needed for the fulfillment of their professional duties.

⁷⁸ According to the law, the instruction may be provided in other languages at (a) private education institutions; (b) state or municipal education institutions that implement minority education programs; and (c) other education institutions as prescribed by other laws.

(grades 10-12), the amended law envisioned shift to education in Latvian only in 2004.

In 2001, new amendments to the education law allowed for a transitional period during which Russian-medium schools would teach at least 60% of the subjects in Latvian and up to 40% in Russian (Bjorklund, 2004; Hogan-Brun, 2006). As Silova (2006b: 147) notes, many Russian-speakers hoped that the EU would force the Latvian government to review these policies. Heated up by the pre-election campaign of 2002 of most political parties for a shift to Latvian language instruction by 2004, and as the EU monitoring missions were closed down, a new mobilisation wave among Russian-speaking population emerged. It resulted in demonstrations and various forms of protests.

Following mass demonstrations in 2003, the government passed a new regulation of the Cabinet of Ministers and prescribed a ratio of 60/40 to be used in secondary minority schools (Silova, 2006a). The education law did not attract considerable international attention. Here, the HCNM made the most effort with specific recommendations set out in correspondence including a letter to Prime Minister Guntars Krasts in April 1998 (OSCE HCNM 1999). Given the absence of pressure from the EU and the CoE, recommendations given by OSCE's High Commissioner for National Minorities were ignored (Galbreath and McEvoy, 2011). Thus, the regime was arguably less effective in this example.

In March 2004, in its monitoring report on the state of preparedness for EU membership, European Commission concluded that "in terms of...[Latvia's]...legal framework, citizenship, language and education policies have been brought into line with international standards" (EP (2004)0180, para. 73). The report has also stressed the necessity of maintaining adequate scope for minority language teaching, as well

as promoting the social and economic integration of Latvia's minority nationals. Despite these positive changes, the language law has nevertheless remained concern beyond EU accession (Sasse, 2008).

Domestic adjustment costs

There is a persistent domestic political opposition against widening the scope of usage of minority languages in public and private. Among the most engaging political parties in this regards have been TB/LNNK and Unity (V). Together, since May 2004, there have been at least nine attempts to restrict the usage of minority languages at pre-school, primary and secondary school levels and toughen regulations and fines regarding the failure to use Latvian language at the workplace. Among the submitted proposals, two were directed at restricting the opportunity for minority schoolchildren to study in their languages at pre-school level – on May 22, 2013 (submitted by TB/LNNK) and March 6, 2013 (submitted by Unity) (LCC, 2013b; LCC, 2013c). Another two proposals (December 2, 2009 & May 10, 2011) submitted by TB/LNNK stipulated transition of all state-funded schools to Latvian language only (LCC, 2011; LCC, 2009).

There have also been at least another six attempts to restrict the usage of minority languages in disseminating public information. Eventually, the government increased state language proportion in mass media twice on June 17, 2010, and October 16, 2014, from 65% for TV channels to 90% for radio airtime in the Latvian language respectively (LCC, 2010; LCC, 2014b). Additionally, proposals were submitted to increase fines for insufficient usage of the state language, which were eventually approved by the Saeima. Again, the most actively engaged party in this regard has been TB/LNNK.

On the other side, all the proposals to widen the scope of minority languages in public private and information space have been rejected by the Saeima, including those submitted by state agencies – as, for instance, the draft amendments submitted by the Ministry of Education and Science on March 8, 2013, to wider usage of not only the EU official languages but also of other foreign languages in the state-funded higher education establishments (LCC, 2013a).

It could thus be concluded that compliance with international recommendations in this regard would be less likely as the political costs of their implementation is high.

Salience of norms

In general, the issue of language use is based on zero-sum logic, where attempts to widen the scope of usage of one language [either minority or majority] is perceived by the opposite community as steps to undermine the influence of their corresponding language. Consequently, the government is very skeptical of allowing for more liberal linguistic (or educational) policies, where, for instance, schools could enjoy freedom over taking decisions about the choice of languages of instruction.⁷⁹ And wise versa, Russian-speaking community is very skeptical about any changes to the regulations on language use. The exception is the principle of the teaching of Latvian language to minority schoolchildren, without that impeding the learning of minority languages (Latvian Centre for Human Rights and Ethnic Studies, 2004: 15-16). Demonstrations of 2004 have visibly demonstrated sensitivities of both sides (minorities and majorities) on the question of language (Silova, 2006b: 153-155). “Those who were involved in the process of finding a compromise know how much effort it required to

⁷⁹ Thus, for instance, on May 17, 2006, the Saeima rejected the draft amendments to the Education Law elaborated by the political union For Human Rights in United Latvia (FHRUL), which proposed to grant authority to school self-governments in taking decisions about the choice of languages of instruction LCC. (2006a) FHRUL has elaborated draft amendments to the Education Law providing authority to school self-governments to choose the language of instruction. *Integration Monitor, Latvian Centre for Human Rights*. Rīga..

do so in 2004. Hence those of them who are still in power try their best to preserve the compromise. The younger generations, who adhere to nationalistic agenda are less prone to do so” (Interview with Krivtsova, 26 March, 2015). Indeed, none of the proposals submitted by TB/LNNK (mentioned above) to shift all state-funded schools to Latvian language only have been supported by the Saeima. In this regard, mobilization of people on the question of language use in schools can be said to play a role of a veto player in Latvia context.

The sensitivity of the issue for both communities (minority and majority) and the near "balance of power" in terms of sheer numbers makes them wary of each other's demands. The salience of recommendations regarding linguistic policies could thus be "evenly divided," with minority community strongly supporting international recommendations in this regard, and the majority being more skeptical about them. In terms of compliance, hence, we might expect that no significant changes will be undertaken, as that might revive the sensitivities of either of the communities. On the other hand, we might expect "teaching of Latvian language" to be a successful policy endeavor, as both communities are in favour of the reforms (see Table 6.6). Given the background of linguistic policies in Latvia, it could be expected that the pattern of compliance with international recommendations will be as follows:

Table 6.6: Key explanatory factors with regard to Linguistic policies, and the resulting expectations for compliance

Linguistic Policies	H2: Domestic salience of norms	H3: Domestic adjustment costs	
		Economic and/or institutional costs	Political costs
Use of languages in public and private spheres	Opinion evenly divided	Low	Yes
<i>Implementation</i>	---	<i>More likely</i>	<i>Less likely</i>

Maintaining the use of minority languages	Opinion evenly divided	Low	Yes
<i>Implementation</i>	--	<i>More likely</i>	<i>Less likely</i>

2.3 Post-accession compliance with international recommendations on linguistic policies

Formal Compliance

Post-accession compliance with international recommendations presents mixed results. Both formal and behavioural compliance has been partial. Latvia's minorities have been restricted in some rights, while some other restrictions have been lifted and the scope for exercising some other rights was widened. Among the related changes were the introduction of 60/40 formula in minority primary schools and widening of the list of professions regulating the required level of Latvian language knowledge. Also, in some cases a drawback is observed. Russian-medium In the following sections, a more detailed account of post-accession reforms and their implementation will be provided.

Behavioural Compliance

2.4 Use of languages in public and private

(a) Training of Latvian language

The teaching of Latvian language minority nationals is so far the most successful endeavour of the government. Research conducted by the *Baltic Institute of Social Research, Centre for Public Policy PROVIDUS, Latvian Language Agency (LLA)* and the *Office of Citizenship and Migration Affairs (OCMA)* showed a consistent increase in the percentage of the total minority population of Latvia speaking state language. Over the period from 1989 to 2000, the number of those familiar with Latvian

increased by more than 20%. In 1989, only 22.3% of ethnic minorities could speak Latvian. In 2000, this number was 49.8% (Djačkova, 2004). The number of citizens and non-citizens improving their Latvian language skills has been increasing since 2000 as well. As Table 6.7 indicates, whereas the number of those having highest and average level of Latvian language was 57.4% among the total number of respondents, and 37.3% of Latvia's non-citizens, in the year 2012 this number raised to 94.7% and 57.3% respectively (Buzaev, 2013a). By 2011, more than 90% of respondents with the Russian language as their mother tongue indicated that they know Latvian (ACFC/OP/II(2013)001).

Table 6.7: Level of Latvian language proficiency among ethnic minorities according to the survey results of 2008-2012

	Category of language proficiency	Highest	Average	Lowest	Do not speak/certification not passed
	Questionnaire 2008	All respondents	26.2	31.2	35.6
Citizens of the Republic of Latvia		33.7	38.4	25.8	2
Non-citizens		16	21.3	48.9	13.8
Official certification		13.9	24.2	5.9	53.9
Questionnaire 2009	Level of knowledge	Good	Average	Basic knowledge	Do not speak
		48	27	16	8
Questionnaires by OCMA	Level of knowledge	Speak, read and write fluently	Understand on the conversational level or have difficulties with writing	Use simple phrases or know some words	Do not speak
2011		12	43	38	7
2012	All non-citizens	17.5	39.8	39.5	3.2
	Citizenship applicants	30.4	64.3	5.3	0

Source: Buzaev (2013a)

Analyzing linguistic situation in Latvia from 2004 to 2010 (Balodis et al., 2012), LLA found that younger respondents whose native tongue is Russian acknowledged

better Latvian language skills than older respondents. In 2009, for example, 64% of Russian-speaking youth between 17 and 25 years of age indicated that they had a good command of the Latvian language. Another 31% assessed their skills to be on a moderate level, with another 5% who had not ranked their skills at all. LLA marked a significant increase in the acquisition of Latvian among the younger generation. According to the survey conducted by LLA, in 2004, 65% of them marked their Latvian language skills as good (23% highest and 43% moderate level), while in 2008 the proportion was already 73% (34% highest and 39 moderate level) (Balodis et al., 2012: 38). In 2009 survey, no one of the Russian-speaking youth in this age range indicated that they had "Basic knowledge" or "No knowledge" of Latvian. The number of those who do not understand the Latvian language at all has decreased and is quite small today (8%) (Balodis et al., 2012: 49). These results seem not to be surprising, given earlier research by Djačkova (2004), which showed that schools remain as the main institution, where most people (55%) acquire Latvian language skills. According to the study, only about 17% of those interviewed had taken Latvian language courses, and 10% learned Latvian by self-education (Djačkova, 2004: 22)⁸⁰. In turn, school examination results of the state language command, though not even, show a rather stable percentage of primary and secondary minority schoolchildren showing the highest, average and lowest Latvian language proficiency level (See Table 6.8). Even though around 17% of schoolchildren exhibit the lowest level of knowledge of Latvian language, the number of those not speaking Latvian at all is virtually non-existent.

⁸⁰ The Latvian Language Agency also found that the level of Latvian language skills is correlated with the level of education. People with higher education have better knowledge of Latvian and other languages, and a "more positive linguistic attitude" Balodis P, Baltiņš M, Ernštreits V, et al. (2012) *Language situation in Latvia: 2004-2010*, Riga: Latviesu valodas agentura (Latvian Language Agency)..

Table 6.8: Examination results of the state language command of the graduates of primary and secondary schools of national minorities (%)⁸¹

Year		FE	DC	BA		FE	DC	BA
2004	Form 12	13.7	59.72	26.56	Form 9	16.3	67.76	15.95
2005		16.5	54.69	28.77		11.5	62.88	25.65
2006		13.4	54.26	32.29		11.8	72.63	15.61
2007		13.2	60.33	26.51		16.4	64.98	18.62
2008		14.9	60.19	24.9		13.2	66.12	20.68
2009		18.3	52.66	29.08		17.1	66.46	16.46
2010		17.3	51.08	31.59		24.5	62.79	12.74
2011		17.61	58.21	24.19		17.78	65.96	16.26
2011		20.57	57.52	21.91		26.26	64.89	8.85
2012		32.36	61.36	6.28		17.2	66.05	16.76
Average		17.78	57	25.21		17.2	66.05	16.76

Source: Balodis et al. (2012)

Whereas minority schools belong to a single education system and hence are maintained and financed by the government, the same cannot be said about language courses available for the wider public. The number of language courses available for public decreased since 2004. The closure of language courses seems to be mainly associated with the decreased international funding as has been mentioned in section 1.4 (Krūma, 2010). The system, as such, is characterized as being fragmented and uncoordinated, where different courses and standards are scattered among different ministries and agencies. It is important to note, however, that even when external funding was readily available, the number of persons (both citizens and non-citizens) attending those courses was insignificant (Djačkova, 2004). This number had been steadily decreasing from 7856 attendees in 2004, 2621 in 2005 to 105 in 2011 (ACFC/SR/II(2012)002).

Hence, as international funding has been pulled off, the number of available courses decreased as well. There are, however, other courses organised by local self-governing bodies (Interview with Aldermane & Stalidzane, 24 March, 2015). The

⁸¹ The Levels A and B obtained in the centralised examination in the official language conform to Grade 3 (the highest) of fluency in the official language, Levels C and D conform to Grade 2 (medium) of fluency in the official language, Levels E and F conform to Grade 1 (the lowest) of fluency in the official language.

interviewees have mentioned that the demand for such courses is high in Riga (where the majority of minority nationals reside). In her interview, Ms. Aldermane said that all the places had been snapped out almost immediately.

(b) Teaching of minority languages

In the sphere of education related to minority schools, there has been one major change. On the 1st of January 2012, Cabinet of Ministers adopted the Regulation No. 1006. The regulation came into force in four days after adoption and restrained teaching in the native language. The regulation prescribed that 40% of subjects in primary schools should be taught in the official language or bilingually. Nevertheless, as *Advisory Committee* reports, the new regulation has in fact only affected the work of two schools, as most other schools have already increased their Latvian language instruction to prepare students adequately for secondary school education (ACFC/OP/II(2013)001). In fact, primary educational establishments have been implementing the reform since 1999. Back then, each minority primary school was offered a menu of four reform models that differed in proportions of the respective languages of instruction. Schools were allowed to present their own model (Ivlevs & King 2014). Due to its flexibility and the gradual nature of the introduction of Latvian, the reform faced little public criticism (Schmid, 2008). The novice of the new amendment, however, was that it deprived public minority schools of the rights to choose their own models of use of languages of instruction in grades 1 to 9 (basic school). Hence, rather than changing the content, the new regulation was a largely symbolic act that had no practical effect on the workings of minority primary schools. Other regulations regarding preservation of minority schools as such and their financing by the state remained in place. No setbacks are observed. Minority schools

are still part of the unified educational system and are financed by the state. The number of minority schools has diminished since 2004. However, the decrease in number is attributed to demographic factors, along with state funding scheme. Hence both majority and minority schools have been affected. Even though the closure of minority schools has been met with criticism from representatives of minorities, they were not results of legislative changes.

In the 2014/15 academic year, 821 schools of general education receive state funding. Out of those, national minority education programmes are implemented in 109 schools: education programmes in the Russian language and bilingually are carried out in 99 schools, in Polish and bilingually in 4 schools, in Ukrainian and bilingually – in one, in Belarussian and bilingually – in one, Hebrew – in two, in Latvian and Lithuanian – in one, in Latvian and Estonian – in one school (MFA/RL, 2016; EUMC, 2004). Even though the number of schools has diminished since 2004, this is a result of the general policy of financing students, rather than a policy targeted at minority schools. Nevertheless, they still stay as the most affected ones.

In pre-school educational establishments, both the numbers of pre-school children, as well as the institutions have risen. As *Central Statistical Bureau of Latvia* reports, as the percentage of pupils from the school year 2004 to 2013 has risen 17.2 % (amounting to 22203 pupils in total), the total number of pre-school institutions has also risen from 551 in 2004 to 613 in 2013 (Statistical Bureau/L, 2004-2013). The total number of general school children enrolled at Latvian general schools has on the other hand decreased. Consequently, both the number of Latvian language schools and minority language schools has decreased (See Table 6.9).⁸²

⁸² The total amount of children enrolled at full-time general schools decreased from 302667 in 2003/04 school year to 190775 school children in 2013/14. Of this, 127 337 were enrolled in Latvian language schools and 45 461 in Russian language schools (statistics for 2013/14). The total number of schools decreased from 974 in 2006/2007 school year to 814 in 2011/2012. The number of Latvian language

Table 6.9: Total number of schoolchildren enrolled by the language of instruction and the total number of schools by the language of instruction⁸³

School year	Total number of children studying in Latvian	Total Number of Latvian Schools	Total number of children studying in languages other than Latvian	Total Number of Minority Schools
2006/07	171712	727	61773	154
2007/08	162237	722	57669	148
2008/09	153471	724	54242	142
2009/10	146839	648	50654	121
2010/11	139942	646	48316	110
2011/12	134480	641	46916	106

Source: Statistical Bureau/L, 2006-2012.

Thus, even though minority schools have been heavily affected by the cuts and closure of schools, these measures are not targeted exclusively against minority schools. Latvian language schools have been subject to similar cuts.

The two linguistically separated education tracks persisted after Latvia re-gained independence in 1991. Towards the middle of the 1990s, the foundations of the official minority education policy emerged, specifying that public minority education should follow the '(transitional) bilingualism' route. This meant that an increasing share of instruction in minority schools was to be done in Latvian, aiming at the long-term convergence towards the primacy of Latvian as the language of instruction in minority schools (Ivlevs and King, 2014a). This policy was justified on the grounds of integrating society on the basis of the state language – Latvian. This led some scholars to conclude that instead of embracing *de facto* bilingualism in the country, Latvia took a 'monolingual turn,' focusing nation-building policies on de-russification and the reunification of the population through the means of the titular language (Laitin, 1998; Pavlenko, 2011; Smith, 1998).

schools decreased from 727 to 641, and Russian language schools from 148 to 99 for the years 2006/2007 and 2011/2012 consequently (Statistical Bureau/L, 2006-2014).

⁸³ Excluding those who study in mixed schools and excluding two-flow schools.

In their study on 2004 education reform in Latvia on minority schoolchildren performance in centralized exams from 2002-2011, Ivlevs and King (2014b) found that relative position of the Russian minority schools, as measured by the minority-majority difference in the centralised exam results, significantly deteriorated. The negative effects are most pronounced in the early years following the reform. However, some improvement of the minority schools is observed at the end of data series (Ivlevs and King, 2014a).

(c) Language provisions in labour market

In the sphere of the labour market, some contradictory changes regarding language requirements in public and private sectors have been introduced. Overall, however, the situation has deteriorated. The use of Latvian remained mandatory in all official communication. No clarity was brought to the definition of 'legitimate public interest.' Language control mechanisms remained intact, and the fine scheme was revisited several times, increasing fines for the use of the state language on an inadequate level. The list of professions demanding high levels of Latvian language proficiency has been extended several times in both public and private sectors.

There have been no major changes in the legislative framework related to using of language in labour market. The state Language Law 1999 defines legitimate public interest as the 'lawful interests of the public' encompassing "public security, health, morality, health care, protection of consumer rights and employment rights, safety in the work place and public administration supervision" (Section 2 of the State Language Law 1999). The definition remains too broad and leaves room for interpretation. The government did not redefine or bring clarity to the current definition of 'lawful interest of the public.'

It is noteworthy that while language requirement has been dropped off for some professions, restrictions have been introduced for some other professions. It is not clear what kind of benchmarks did the government use for making these changes. These contradictory changes notwithstanding, the basic principles of language regulation remained unaltered. Since Latvia joined the CoE and the EU, judicialisation of language use in the public and private spheres has constantly been expanding (Kochenov et al, 2011; ACFC/OP/II(2013)001). The list of professions demanding high levels of Latvian language proficiency has been extended several times.

Since 2000, the government has updated the list of professions requiring certain corresponding knowledge of Latvian language several times. Notwithstanding the changes, ethnic Latvians are still overly represented in public sector, while the majority of minority nationals work in private sector (Ivlevs and King, 2012). After adoption of the Law on the State Language, Latvian government adopted regulations No.296 in summer 2000. Annex1 of the regulations defined the list of professions with corresponding language requirements that had to be certified by official state examination. The list included approximately 3,000 occupations and professions of the employees of state and municipal institutions and enterprises only. A few months later, on November 21, 2000, the government adopted a new Annex 2 to the Regulations. The Annex 2 listed positions and professions in the private sector, the employees of which were subject to language skills certification. The annex contained a list of 34 positions (professions or groups of professions), including 316 professions (Buzaev, 2013a: 49). This list was further extended to 48 positions, including 348 professions on 19 December 2006. Lastly, on September 1, 2009 the government adopted Regulation No. 733 (1 September 2009), whereby the list of professions in

both Annexes was further extended - in public sector language requirements apply to 3611 positions and professions, in private sector to 1195. Language requirement for the low-level language command was introduced from 01.02.2010., intermediate – 01.03.2011., and advanced – 01.09.2011 (Buzaev, 2013a: 49-50).

When it comes to Language inspections and inspectorates, the policies remained similar in form, but the content has changed nevertheless. When the Code of Administrative Violations (1992) was amended in 2001, it listed 14 kinds of linguistic violations. The Code has been amended twice ever since. First, on January 7, 2009 the government introduced fines for employers, who did not define the necessary level of the state language command for their employees, if these employees communicate with customers or work with documents (Buzaev, 2013a: 55). The minimum fine for most widespread massive violation of the regulation – failure to use the state language to a necessary extent – was then increased from zero up to 25 Latvian Lats (EUR 35). On 16 June 2011 amended Code increased the fines (up to 25 times) for linguistic violations for those who violated the legal provisions on the use of languages in radio and television (Buzaev, 2013a: 55).

2.5 Maintaining the use of minority language

(a) in public, including media

In the area of minority language use in media, we observe partial compliance. There are some positive trends observed. First, the allowance of the percentage of programmes broadcasting in other languages was increased. Also, the government installed programs in Russian language (Channel 7) – an event that some interviewees described as unprecedented (Interview with Golubeva, 18 March, 2015). This was done in the aftermath of Ukraine crisis. Nevertheless, as IO and NGO report, there are

still occasionally some problems with distribution of information in Latvian, even in cases where it concerns health or security of the population.

Even though media environment remains overall divided between Russian and Latvian information space with little interaction and few bilingual options (ACFC/OP/II(2013)001), a few positive steps have been taken. With the adoption of the Law on Electronic Mass Media on July 12, 2010, the overall proportion of radio and TV broadcasting that must be in the official language has been lowered to 65%.

As Golubeva (interview notes, 18 March, 2015) put it, what was unimaginable several years ago is now seen as a necessary measure to be taken by the government. However rather than resulting from domestic demand, these policies were introduced in the aftermath of Ukraine crisis, when differences in the information presented by the Russia-backed media significantly differed from the state-sponsored one. Thus, it was a *reactionary* measure against the external event. Hence, rather than being guided by normative considerations, these steps were taken within the framework of national security considerations.

(b) in relation to administrative authorities

In relation to administrative authorities, no compliance with post-accession recommendations and no deterioration were observed. In practice, the Court provides any person with a non-Latvian background with an interpreter. Exceptions are cases dealing with penalties for insufficient Latvian language command, when non-Latvians have problems⁸⁴.

Existing regulations continue to essentially prohibit the use of minority languages in relations with administrative authorities. In a number of areas and institutions, letters submitted in minority languages, mainly Russian, are accepted and responded to in

⁸⁴ The right to be provided by an interpreter are enshrined in the Civil Procedure Law (Article 13) and Criminal Procedure Law. All the documentation has to be done in the state language nevertheless. 296

Latvian, with a cover note summarising the content in Russian. It nevertheless remains an exceptional practice that depends on the personal discretion of the administrative representative in case. In its 2012 study, the LLA concluded that this is the area in which Latvian is most widely used and therefore – least endangered (Balodis et al., 2012: 86). At the same time, the study concluded, it is the area in which all (100%) those respondents who speak only Russian experience difficulties, as they do not know Latvian. To summarise,

Table 6.10: Summary on compliance with of post-accession recommendations

		Full Compliance	Partial Compliance	No Compliance
Legal framework, policy and practice regarding the use of languages in public and private spheres	Free training for learning Latvian		X	
	Opportunity to study in minority languages at pre-school, primary and secondary school levels	X		
	Bringing clarity to the concept of ‘legitimate public interest’			X
Dissemination of information in minority languages	Maintaining the use of minority language in media		X	
	Disseminating public information in minority languages		X	
	Communication with officials in minority languages			X

2.6 Comparative conclusion: Process-tracing analysis

Comparison across compliance with recommendations in the area of linguistic rights show, presence/absence of political costs as an explanatory variable failed to deliver consistent outcomes. Despite the presence of veto players in the form of populist right-wing parties and their opposition against providing an opportunity to study in minority languages at pre-school, primary and secondary school levels, the *status quo* has largely been preserved, and the government continues to finance minority language schools. As has been shown throughout the chapter, changes in the realm of

education have mostly been symbolic and have not changed the content of the existing practices *per se*. It could thus be concluded that presence of political costs prevented *roll back* of pre-accession reforms in the post-accession period. It could be said that pre-accession reforms have locked-in. On the other hand, what did foster drawback of recommendations under “legal framework, policy and practice regarding the use of languages in public and private spheres” category was termination of international funding.

Furthermore, neither have economic and/or institutional costs correlated to the observed outcomes. Despite low implementation costs, none of the recommendations were met in full.

While salience of the norms, as an indicator, was not helpful to predict future compliance patterns, almost evenly divided demographics fostered "a compromise" that all parties are willing to preserve, over the period of analysis. Importantly, a sheer number of Russian-speaking minority and activism that it exhibits to the questions related to education in minority languages, has almost a ‘veto-player’ effect.

Given the insufficiency of the within-country explanatory variable to account for the outcomes, we are moving one level up to the country-level explanations to account for the outcomes. In Chapter V, it was suggested a pattern of adoption of international recommendations followed the tit-for-tat logic. By using process tracing analysis, the rest of this section will focus on the explanations of compliance pattern with the changes in the area of citizenship rights and linguistic policies. In this regard, the following questions need to be addressed: why teaching Latvian has been the most successful policy so far, while some other restrictions in education in minority languages and contradictory changes regarding language requirements in labour market have been introduced? Also related to linguistic rights of minorities, why

given strict regulations on the use of minority languages in media did the government introduce new programs in Russian – a move that experts termed as ‘unprecedented’ (Interview with Golubeva, 18 March, 2015)?

Indeed, process tracing analysis show, compliance with specific issues can be explained as *a reaction* to either domestic internal or external factors/events. First, the success of ‘teaching Latvian’ as a policy measure is explained in terms of importance that Latvian language place in state identity. The assumption that residents of Latvia who do not speak Latvian language are disloyal to the state is quite widespread among the population and political discourse. It is interesting that the burden of proof regarding the loyalty is put on the Russian-speaking population of Latvia *a priori*. In general, teaching Latvian was believed to be a ‘remedy’ against all these concerns. It is through teaching Latvian to ethnic minorities did the state aimed at “mak[ing] non-Latvians Latvians” (Interview with Ose, 16 March, 2015). Hence, international recommendations to provide minorities with adequate training of Latvian language went hand in hand with the government’s willingness and commitment to make Latvian a dominant/sole language of communication in all official settings. Ligita Grigule – one of the designers of bilingual education in Latvia explained,

"As Latvia regained its independence there was ‘asymmetrical bilingualism’ in the country, where all ethnic Latvians spoke Russian, whereas as ethnic Russians could not speak the Latvian language. The main purpose [of bilingual education] was to teach minority nationals Latvian language and make a transition to using Latvian in all spheres. Bilingualism was presented as something good, as a method of studying in two languages. However, the underlying aim was to teach Latvian. Latvian schools, for instance, never made this shift to bilingual education. It was meant as a method to make an eventual transition to education in Latvian only. That was, in a way, not a

very fair game. A political one" (Interview with Grigule, 25 March, 2016).

The point that education did not change in content, but in form with an emphasis on learning Latvian was shown in a comprehensive study by (Silova, 2006a). Hence, not only were the costs of implementation not high, but also the idea of a shift to Latvian language only dominated among political elites.

On the other hand, January 2012 amendments to the Law on Education, prescribing that 40% of subjects in primary schools should be taught in the official language or bilingually, were introduced in the aftermath of the referendum on the status of Russian language as a state language. The referendum brought the issue of the curriculum language in national minority pre-schools and general education schools into the centre of political discussions (Zankovska-Odiņa and Kolčanovs, 2015: 32). Once sensitivities around the issue of language were revived, VL-TB/LNNK suggested creating a unified system of pre-school education institutions, which would provide learning in all kindergartens in the official language. The proposal also included provisions for retaining ethnic and cultural identity orientation in the groups, which include children from families representing various ethnic backgrounds. As a result, regulation No. 1006 was adopted (Zankovska-Odiņa and Kolčanovs, 2015: 32). To date, education remains one of the issues instrumentalized for political means by the parties around the time of government formation, elections (Zankovska-Odiņa and Kolčanovs, 2015) and 'important events,' such as the referendum on the status of the Russian language.

Change in language requirements for public and private jobs is a result of internal factors and processes. The question of why have the language requirements been dropped off for some professions needs to be answered. It is not clear what kind of criteria did the government use. The list of professions requiring Latvian language

proficiency was extended several times - 19 December 2006 and September 1, 2009. One factor, which contributed to the strengthening of regulations, was the temporary worsening of the quality of Latvian in the service sector in 2006 to 2007, as labor shortages forced employers to lower de facto requirements for new workers (Hazans, 2011: 187). Thus, at least partially, these changes could be attributed to rational cost-benefit calculations or pragmatic reasoning.

Lastly, the incorporation of new programs in the Russian language on TV7 followed in the aftermath of Ukraine crisis. The willingness of the government to reach out to its Russian-speaking population and to present Latvian view on the events fostered these changes.

To conclude, comparison across citizenship and linguistic policies showed, neither [negative/positive] salience of norms, nor [presence/absence] domestic adjustment costs were sufficient to determine compliance pattern with international recommendations. However, it was observed in both cases that in those cases where the new policies/legislation were introduced, thus changing the form, (e.g. new Citizenship policy, amendments to educational law), the content of implemented policies has remained the same. In the first instance, the institution of 'non-citizenship' has not been abolished/prevented as such. In the area of education, the law only reinstated what has been practiced in reality for a while. Thus, these changes have not altered the content of the policies as such. In addition to this, analysis of compliance against country-level explanatory variables has shown, the introduction of (some of) the issue specific policies took place as a *reaction* to either domestic internal or external events (such as referendums, Ukraine crisis, etc.). Pragmatic

considerations also played a part, as in the case of language proficiency requirements for certain professions.

Process tracing analysis has also shown that domestic civic activism with regard to the issue of language plays an important role in preserving the “compromise” that has been established in 2004. Latvian citizens prefer to act through domestic channels (such as signing petitions, going on demonstrations, etc.) than to reach out to supranational institutions. This finding is supported by SKDS public opinion poll, conducted in October 2014 (in Kažoka, 2014: 11). According to the poll, 32.5% of respondents indicated that they did not want to participate in EU decision-making. Responding to the question of if they needed to influence a decision at the European Union level, which of these methods they would choose, 38.9% pointed at tools available domestically (such as communicating with the Latvian Parliament (Saeima) or government, Latvian members of the European Parliament, or signing a petition). Another 21.8% found it hard to say or provided no answer.

It is important to note that Latvian political system also exhibits signs of the healthy democratic deliberative process. The research has shown that there is an underlying deliberative process going on in most of the legislative initiatives. International pressure in the form of pre-accession commitment to adopt FCNM and post-accession pressure to ease regulations with regard to newborn children proved to be partially successful. This pressure was undermined by the domestic political opposition, which fostered the adoption of ‘compromised compromise.’

CHAPTER VII. Conclusion

This thesis is a part of the academic scholarship focusing on the effectiveness of IOs in fostering compliance with minority rights norms. By applying the Europeanization framework to non-EU/candidate countries, the thesis aimed at further developing existing research by presenting a comparative analysis of the post-accession adoption of minority rights reforms in countries that were not subject to EU's membership conditionality, which was found to be determining factor in driving changes in the pre-accession period in the Central and Eastern European States. The main aim of the thesis was to explain why given the change in incentive structure, do states comply with IO recommendations in the post-accession period? To present a more holistic analysis of post-accession developments, both 'top-down' and 'bottom-up' influences were taken into consideration.

One of the main findings of the thesis is that the effect of IOs on states after accession is very limited. However, it is not defunct. As was hypothesized in Section I of Chapter II, IOs' influence in the post-accession period was confined to cases in which the ruling governments wanted to safeguard their reputation as 'good European citizens.' Here, a few reservations are due. First, if and when present, considerations of reputational costs were only effective to the extent of forging *formal* (as opposed to *behavioural*) compliance. Thus, for instance, while ratifying the FCNM, the government of Latvia has also adopted reservations that have narrowed the scope of application of the Convention domestically. In this regard, reputational concerns were tamed by the ruling government's stance towards minorities and domestic political considerations. In particular, the presence of domestic opposition in the face of far-right political parties made it politically costly to embark on a more liberal approach

to the FCNM adoption.

Having said that, against the expected scenario of observing stronger top-down influences in the case of Georgia, due to its willingness to become a member of NATO and to establish itself as a *European* state, the process-tracing analysis has shown that this is not the case: top-down influences were not stronger in Georgia, compared to Latvia. As has been shown in Chapter III, adoption of the FCNM in Georgia was possible as it did not run against existing domestic institutional practices (with regard to minority rights protection) and the ruling government's policies towards minorities. Thus, while boosting its international credentials, adoption of the FCNM did not alter the ruling government's nationhood policies, the rationale of which was integrating Georgia's minorities into Georgian societal culture.

Secondly, the image that states have of IOs as an embodiment of certain norms and practices is in flux. In the post-accession period, once states become members of 'a club,' a deconstruction of the image of a given organisation takes place. This applies in particular to the European Union. Due to the lack of foundation of minority rights in the EU law, the image of the EU after accession, quite expectedly, turns from the one fostering adoption of norms inscribed in the Copenhagen Criteria to the 'club of states,' whose members exhibit different practices of minority rights implementation. This is what some interviewees described as 'negative effect of IO membership' (Interview with Berdnikov, 24 March, 2015) – *states learn to say and do things as the other countries do*. However, unlike the expectation formulated by Pridham (2008), instead of fostering a retreat from the commitments undertaken in the pre-accession period, discrepancies in minority rights practices among the old and new member states opened the avenues for Latvian politicians to justify non-compliant behaviour

with post-accession recommendations, by making references to similar practices existing within the EU, when those recommendations run against government's preferences.

In particular, existing differing minority rights practices among the EU member states opened the avenues for Latvian politicians to justify non-compliance with post-accession recommendations, by making suitable/adequate cross-reference. This is particularly obvious in official government reports that make reference to the existing practices of other non-compliant Western European states. Very often these governmental reports conclude that Latvia takes a much more liberal approach to its minorities than some other EU states. This point is also highlighted by Brands Kehris (2010b: 107), where analysing policies related to Latvia's non-citizens she notes,

The choice of focusing the discourse on legally based arguments led to the recognition that not only are there no legally binding international standards that can force provision of citizenship or the right to participation in local elections by non-citizens, but that in fact, despite all the resolutions and talk of trends in this direction of European democracies, several of the largest countries in Europe do not, in fact, provide such rights to their permanent residents, who are not citizens. This line of argument has become the standard response of Latvian authorities whenever international observers comment on the political rights of non-citizens in Latvia (Brands Kehris, 2010b: 107).

There is, however, a self-censorship element to the influence of IOs in Latvia. The language employed by the government for the international audience (e.g. in its reports to international organisations) contains politically neutral phrases that mirror the spirit of the FCNM. Domestically, however, this is not always the case. Hence, governments do not act as 'passive agents' – transposing the norms into the

domestic legislative system without questioning and examining practices among other member states. Additionally, due to the lack of enforcement mechanisms at the supranational level, the government learns what could be called a diplomatic language of minority rights practices.

One of the other important findings of this thesis is that bottom-up processes take place indeed. In line with the expectations presented in Section I of Chapter II, 'bottom-up' influences are more important in Latvia, rather than Georgia. As has been shown in Chapter VI, Latvia's members of the European Parliament (MEPs) actively engage in submitting petitions on granting Latvian non-citizens the right to vote in municipal elections to the European Parliament Committee on Petitions. Thus, using McCauley (2011: 1021) categorisation outlined in Chapter I, 'bottom-up' Europeanization is of a proactive nature, with reorientation of national groups to supranational venues. However, it is still questionable as to what real effects these attempts have on pushing Latvia's ruling government to adopt EP recommendations. While the option of 'uploading' to the EU level is not available to Georgia's citizens, domestically, Latvia's minorities are also much better equipped to upload their demands to the Saeima. In contrast to Georgia, representatives of the so-called leftist parties in Latvia have successfully served as a catalyst for defending the rights of minorities in the Saeima. In the case of Georgia, process tracing has shown that minorities fail to effectively mobilise around the issues that are of concern to them. The underrepresentation of minorities in Georgia's parliament only exacerbates the problem and makes the possibility of 'upload' dimension (domestically) problematic. Last, but not the least, the sheer size of minorities in Latvia and the sensitivities they express around the issue of language, in particular, deters ruling governments to make any attempts at restricting the scope of use of minority language (Russian in

particular). This has also been partly why the rate of negative formal legislative and policy changes has been low in Latvia, despite numerous legislative proposals to the opposite effect in the Saeima. As has been shown in Chapter V, the majority of the policy proposals regarding the issue of language has been directed to restrict the scope of use of minority languages in public and private spheres. However, the sensitivity of the issue among minority groups and mobilisation of people around the issue incentivizes domestic political circles to preserve the *status quo*.

These findings necessitate a few theoretical and conceptual clarifications. In line with existing scholarship outlined in Chapter I, this research has shown that there is a discrepancy between formal and behavioural compliance, and hence there is a need to differentiate between the two conceptually. The formal adoption of norms has not necessarily been followed by their implementation. In the case of Georgia, the discrepancy between formal and behavioural compliance was observed in the area of linguistic and religious rights. Thus for instance, while the rights of ethnic minorities to receive education in minority languages is guaranteed by the law, the government failed to establish standards and designing methods for an adequate implementation of the reform. The quality of education in minority schools is thus qualitatively inferior to those providing education in the Georgian language. Similarly, approved measures of 2014 to compensate damages inflicted upon minority religions during the Soviet regime did not result in the restitution of religious properties to minority religious denominations.

Secondly, as had been suggested in Chapter II of this thesis, compliance is a matter of degree. This applies to both formal and behavioural compliance – even the formal transposition of norms through legislative changes was at times accompanied with the adoption of reservations, as in the case of FCNM in Latvia, or the adoption of a

watered-down version of anti-discrimination Law of 2014 in Georgia. By the same token, against international recommendations, the new *Citizenship Law of 2013* in Latvia, while liberalising the procedure for registering newborn children as citizens of Latvia, failed to ensure that Latvian citizenship is granted automatically to children of stateless persons and non-citizens. In this way, while making it easier for parents to register their newborns as citizens, the legislation left the possibility of registering newborns as non-citizens.

In addition to the gap between formal and behavioural change, the pattern of compliance across issue areas has not been uniform. In Georgia, the implementation of IOs recommendations regarding the teaching of Georgian was prioritized over recommendations concerning the teaching of, and in, minority languages. In the area of religious rights, recommendations regarding providing the minority religious groups legal status (that is, recognition as a religious organisation) was prioritised over the recommendations to address the issue of restitution of religious properties confiscated during the Soviet period. The most prominent setback after 1999 has been in the area of religious rights, related to international recommendations to secularise educational establishments.

In Latvia, provisions ensuring education in minority languages have largely remained in place. Despite various policy proposals to (mainly) restrict the use of minority language in schools, only the regulation No. 1006 has been adopted since Latvia's accession to the EU, which prescribed that 40% of subjects in primary schools should be taught in the official language or bilingually. This has affected the workings of one school only. As has been shown in Chapter V, while the issue of non-citizens has gradually come off the political discourse, the same cannot be said about the issue of

language. Language remains a contentious issue that is (especially) politicized around important events, such as the Saeima elections, referenda, etc. In comparative perspective, implementation of recommendations regarding the issue of citizenship rights post-accession has been more successful than recommendation with regard to linguistic rights. While the *status quo* of the use of language in educational establishments has been largely preserved, a few setbacks were observed. First, the number of language courses (teaching Latvian language to minority nationals) has been decreased due to the cut in international funding. And secondly, the most notorious setback has been the adoption on 23 September, 2010 of the Law on the Status of a City Council or a Regional Council Deputy that foresaw that a deputy's mandate can be annulled by the decision of the regional court if the knowledge of Latvian by the deputy does not correspond to the level fixed by the government regulations.

Comparing post-accession compliance across cases reveals a few trends. First, norm implementation (as opposed to mere formal adoption) has generally been better in Latvia than Georgia. This has been particularly evident in the area of education in and of minority languages. However, Georgia exhibited a better performance with regard to formal compliance: the rate of (positive) formal legislative and policy changes post-CoE accession has been higher in Georgia, than in Latvia after it became an EU member-state. Secondly, comparing changes across issues in both countries has shown, promotion of the use of state language, in public and private spheres, as a policy imperative has been heavily prioritised over all other issues. Thus, political debates and discussions over the question of language have (quantitatively) superseded all other considerations.

The question is thus, how can we explain the variation in compliance across countries

and issues, as well as cross-country similarities (outlined in the paragraph above)? The following paragraphs summarise main findings of the analyses of these trends against, first, issue-specific, and second, country-level explanatory factors, which formed the basis of the theoretical framework of this thesis, presented in Chapter II. Afterwards, cross-country comparison will be presented.

Domestic adjustment costs

In line with the hypothesized relationship, domestic adjustment costs affected the pattern of compliance with IO recommendations. However, a clarification needs to be added. As was explicated in Chapter II, domestic adjustment costs were operationalized as having two components – economic or institutional, and political costs. Neither economic and institutional costs, nor political costs were sufficient to determine the pattern of formal compliance with IO recommendations. Thus, for instance, low economic costs of compliance with linguistic policies in Latvia, or high economic costs of implementing linguistic policies in Georgia did not determine the pattern of norm adoption. Instead, these factors affected the pattern of norm implementation (behavioural compliance). Thus, cuts in international funding led to a decrease in the number of language courses available for minority groups and the number of naturalisation offices in Latvia. A shortage of funds also negatively affected the implementation of recommendations regarding education in, and teaching of, minority languages in Georgia. On the other hand, the presence of strong domestic opposition against a specific recommendation affected the content of adopted legislative changes, and in some cases undermined effective implementation of the given legislative change. This was the case with the adoption of the comprehensive anti-discrimination legislation of 2014 in Georgia and the new Citizenship Law of

2013 in Latvia. In both cases, domestic opposition⁸⁵ led to a revision of the original text of the legislation and the adoption of more restrictive legislation. On the implementation side, the involvement of the Georgian Orthodox Church (GOC) in the question of restitution of religious properties to minority denominations aggravated the implementation of the 2014 measures, designed to resolve the issue.

The better state of Latvia's economy in relation to Georgia also explains why the pattern of implementation of norms in the area of education in, and teaching of, minority languages has been better in Latvia than Georgia. As has been stated in Chapter IV, the shortage of funds has significantly restricted the ability of the Georgian government to finance reforms in this area. In her interview, Ligita Grigule (interview notes, 26 March, 2015) who was involved in designing education reforms both in Latvia and Georgia also confirmed this. Grigule suggested that one of the main differences was different funding – in the pre-accession period, there was a massive funding stream to Latvia for the implementation of education reforms. For Georgia that was not the case.

The same pattern was observed in cases where veto players were present. As has been stated in Chapter II, veto players operate on different levels in both countries: in Latvia, these are far-right political parties, represented in the Saeima. In Georgia, the GOC is the only actor who could play the role of an institutional veto player in the area of education, as the Article 5 of the *Constitutional Agreement* and Article 18.2 of the Law on Education 1997 provided that all school textbooks must be approved by the Ministry of Education, in consultation with various ministries and the office of the Patriarch. On other issues (of religion), the GOC played the role of extra-parliamentary opposition. In Latvia, the presence of far-right political parties

⁸⁵ In the case of Georgia, this opposition came from the Georgian Orthodox Church, whereas in Latvia these were political parties, as well as individual (citizens) initiatives.

(expressing opposition to granting minorities more rights) in the Saeima could not prevent the ratification of the FCNM post-accession. However, they (along with other political parties in the ruling coalition) have actively lobbied for changing the content of the adopted legislation – attempts that eventually bore fruit.

Salience of norms

In contrast to the hypothesized relationship between normative salience of minority rights domestically and the higher likelihood of compliance, the process-tracing analysis of norm adoption and implementation across issue areas and country cases did not reveal a causal relationship between the salience of norms among the general population and the pattern of compliance. Thus, for instance, the analysis of compliance with religious rights in Georgia has shown, when domestic economic and/or institutional costs are low, the implementation pattern is associated with the presence of veto players/political costs and the salience of norms domestically. However, the analysis of compliance with anti-discrimination provisions has shown that under low economic and/or institutional costs, formal compliance still takes place even if salience is low and domestic opposition present. The picture gets more complicated in Latvia, where the public opinion, very often, was almost evenly divided between those who were supportive of granting minorities more rights, and those who were not. This could be explained by the demographic composition of the population. However, it presented a methodological challenge of measuring and determining whether the salience of norms among the general population was high or low. Given the challenges, it was concluded that 'salience' as a variable was not a good indicator to predict the pattern of compliance in the post-accession period. Additionally, in general, it is suggested that 'salience' should be treated as a

background ‘variable’ that can provide more/less favourable conditions for compliance, but it does not determine the outcome by itself.

In the following sections, across-issue within country variation in compliance will be examined against country-level explanatory factors.

Ruling government’s orientation/identification

The examination of post-accession norm adoption has shown a link between a government's Western/pro-EU orientation and compliance with IO recommendations in Georgia, and only a tentative relationship between the ruling government's pro-EU identification and post-accession changes in minority rights in Latvia. In particular, government orientation was associated with a change in Latvia until 2007, under Aigars Kalvītis government, and 2008 under Saakashvili leadership in Georgia, before the Russo-Georgian war took place. Afterwards, that variable failed to show consistent results. While the adoption of the FCNM in both countries was explained in terms of the reputational costs (both countries adopted the FCNM to boost their reputation), after 2008, using process tracing analysis no causal relationship between government orientation/identification and post-accession changes in either of the countries was observed.

Ruling government’s stance towards minorities

In line with the hypothesized relationship, ruling government’s stance towards minorities was positively associated with the post-accession changes in Georgia. Using process tracing analysis has revealed that government's nationhood policies have to a large degree defined the implementation dynamics of post-accession reforms, only to be modified by domestic political developments. It is due to the

government's vision of nation-building policies that teaching of the Georgian language was prioritised over teaching in and of minority languages. As has been shown in Chapter IV, the government's new nationhood policy was based on the idea of unifying the nation around Georgian cultural values, and language in particular. Once opposition against reforms rose (mainly from the GOC) after 2007, we observed a deterioration in the implementation pattern of reforms (e.g. on the secularisation of education). However, the presence of strong opposition had a limited impact on formal compliance *per se* – the government defined the form of the reforms, while strong opposition primarily had an effect on its content and implementation.

Against this background, no link was observed between Latvia's governments' stances towards minorities and post-accession changes. On the contrary, as has been shown in Chapter V, Latvia's governments have largely remained skeptical about widening the scope of minority rights. This could explain the unwillingness of the government to meet international recommendations, however, at the same time; it does not provide a satisfactory explanation of the progress, however modest, that has been made in this regard. Thus, the question that should be posed is why did the changes take place despite the negative attitudes of ruling governments towards broadening the scope of minority rights? This question is addressed in the following section.

Alternative leverage mechanisms to the membership incentive

Against the hypothesized relationship between the size of incentives that external actors provide and the likelihood of compliance, the analysis of post-accession norm adoption in Georgia has shown that neither the existence nor the size of external alternative incentives determines compliance. As has been shown in Chapters II and IV, incentives provided by the EU to Georgia through, first, the European

Neighbourhood Policy, and later through Eastern Partnership initiative, have increased throughout the time, culminating in 2008, when the EU has offered to sign the Deep and Comprehensive Free Trade Agreement (DCFTA) with Georgia. The incentive was only used when the economic model provided by DCFTA matched with that of the new government under Margvelashvili. Under the DCFTA, Georgia undertook the commitment of adopting a comprehensive anti-discrimination law. Adoption of the law was not a priority for the governments both of Saakashvili and Margvelashvili. However, as the economic policy imperative of the Margvelashvili government was in line with the DCFTA⁸⁶, the incentives proved conducive to changing the *status quo*. Thus, once the economic development model found resonance with the (new) government's preferences in this regard, external incentives (alternative leverage mechanisms) served as a tool for fostering norm adoption. Again, as has been stated in Chapter IV, the presence of a strong opposition in the form of the GOC has eventually led to the adoption of a 'watered-down' version of the initial draft law.

It could thus be summarised that in Georgia, the international pressure in the post-accession phase was successful in cases where IO recommendations went in line with the government's preferences. In particular, this related to its vision of nation-building and economic policies. At the same time, while government preferences determined the form of post-accession changes, domestic veto players have significantly shaped the content and the quality of their implementation. In Latvia, however, none of the (country-level and within-country) explanatory variables provided a satisfactory explanation for post-accession norm adoption. This finding partly supports an earlier study by Schweltnus et.al. (2009) that found no consistent constellation of factors

⁸⁶ Among these were more stringent regulations and a Labour code widening the rights of employees.316

under which positive change always occurs in Latvia. This thesis developed an alternative explanation to account for post-accession changes in Latvia. In particular, the process-tracing analysis showed that changes were introduced as a *reaction* to domestic socio-economic/political considerations and/or preceding ‘crucial events,’ internal and external, that revived government’s sensitivities around the issue of language and security. Thus, for instance, the 2012 amendments to the Law on Education were introduced in the aftermath of the referendum on the status of Russian language as a state language. The new Citizenship Law of 2013, on the other hand, was first and foremost, an attempt to address the need to sustain ties with citizens all over the world by allowing dual citizenship. Process tracing has shown that provisions regarding the issue of granting citizenship to new-born children were brought up by politicians, and actively propagated by IOs during the process. In this respect, apart from highlighting the divisive political cleavages within the society, it also points to the signs of a healthy democratic deliberative process that takes place within political circles, and society in general. Against this background, international pressure after accession could only be partially successful. The contours of reforms were defined by a domestic political deliberative process and within the scope of concessions that the government could and/or was willing to make: on the one hand, the presence of far-right political parties made it politically costly for governing coalitions to commit to any changes that would significantly broaden the rights of minorities. On the other hand, as has been elaborated on in Chapter V, the ruling coalitions *per se* were not strongly pro-minority.

While the influence of IOs on states after accession is limited, this study shows that against the expected scenario of post-accession norm backsliding (see Section 3 of Chapter I), both in Latvia and in Georgia pre-accession changes have largely

remained in place. This is especially so in the case of the most problematic linguistic and citizenship policies in Latvia. Despite the persistence of domestic opposition (in the form of far-right political parties) against more liberal language and citizenship policies, pre-accession reforms have to a large degree remained intact. This can be explained by 'bottom-up processes, ' and 'domestic costs' hypotheses developed within the scope of this thesis. Namely, due to the mobilisation of minorities around the issue of language, it is politically costly for the ruling governments to attempt to roll back pre-accession reforms.

Importantly, however, explanatory factors developed within the scope of the theoretical framework of this thesis cannot account for all the compliance trends (outlined above) that were observed in the post-accession period. One of them is an observed cross-case similarity – namely, both in Georgia and Latvia attention has been heavily directed at promoting the use of state-language in public and private, against all other recommendations. As has been stated throughout Chapters III-VI, issues surrounding linguistic policies partly stem from institutional legacies of the Soviet system, during which studying in Latvian or Georgian was not encouraged among ethnic minority groups living in Latvia and Georgia respectively. Once both countries regained independence, a vast majority of the minority population could not speak the state language. Interestingly, the 'Russia factor' (see below) adds to sensitivities surrounding the issue of language, but in different ways. As has been stated in Chapter VI, in the Latvia case, Russia plays the role of a kin-state that actively propagates the rights of the so-called 'Russian-speaking minority.' This factor feeds into the fears among Latvia's politicians about Russia's willingness to affect Latvia's politics, and that in case all its demands were met, that Latvians could lose

their cultural identity. These fears are elevated to the rank of the country's security matters.

In Georgia, the nature of the problem stems from Russia's active support of Georgia's breakaway regions – *de facto* independent South Ossetia and Abkhazia. The history of secessionist movements plants seeds of suspicion among Georgian politicians, and the population in general, of any demands for greater cultural autonomy by minorities. There is an inherent fear that nourishing cultural identities of minority nationals living in compact settlements can serve as a precedent for future secessionism, and make Georgia vulnerable to any prospective attempts by Russia either to ignite such movements or support the existing ones.

I would thus go a step further and suggest, for a more holistic understanding of the norm diffusion process in the post-Soviet states, rather than treating those states as enclosed entities, demarcated by national borders, these states should be treated as social spaces, where the influence of various normative structures overlap. And rather than understanding these structures in terms of institutional path dependent factors and existing interstate relations (Jovanovic and Lynggaard, 2014) only, I would suggest going further and treating social realities in terms of networks that continue to sustain and develop themselves through cross-border interactions, on the West and East of the geographical borders, among other things.⁸⁷ Thus, understanding how minority rights norms *diffuse* and *sustain* in post-Soviet states would imply taking into consideration 'top-down' processes that stem not only at the level of the European Union, but also, potentially (and explicitly) Russia.

This study has shown that the influence of IOs on states after accession is limited. It also revealed that compliance with international recommendations varies across

⁸⁷ I develop this argument, based on the concept of 'borderland' in anthropological studies. For a review of studies on borderlands, see Baud M and Van Schendel W. (1997) Toward a comparative history of borderlands. *Journal of World History* 8: 211-242.

countries, as well as across issues within countries. While the theoretical framework could not account for all the post-accession developments outlined in this thesis (and more so in Latvia), comparing across-cases an interesting dynamic was observed. Not only did the common Soviet institutional legacies have an impact on the current state of minority rights practices in Georgia and Latvia; but also, despite the membership in different IOs (thus, Latvia is a member of the EU and NATO), both countries were susceptible to Russia's normative influence. Russia does not only play a role of a keen state (in the case of Latvia) and an external power that supports secessionist movements (in the case of Georgia) but a regional power that emanates certain norms of behavior. In Georgia, the normative influence might be even more pronounced, given the historical links between the Georgian and the Russian Orthodox Churches. In her interview (17 November, 2014) Tamta Mikeladze noted, "very often the statements made by the Georgian Orthodox Church and flyers they use are a direct copy paste from the work of the Russian Orthodox Church."

While Russia's normative influence has not (most of the time) affected the post-accession compliance in Latvia and Georgia directly, it did have an effect on general attitude/(in some cases) policies undertaken by the ruling governments towards the minorities. In Latvia, for instance, cultural events supported (or financed) by Russia are perceived as attempts to extend its political influence in Latvia, which further revives skepticism about the allegiance of the so-called Russian-speakers (as a minority group of its own) to the state of Latvia.

Given the findings and observations, it is thus suggested that the future research should take both top-down and bottom-up influences into consideration when making an analysis of compliance with minority rights in the post-accession period. Also, secondly, despite the membership in different organisations, their relations with

Russia (and thus, a normative influence that Russia has in its neighbouring states) should be taken into account.

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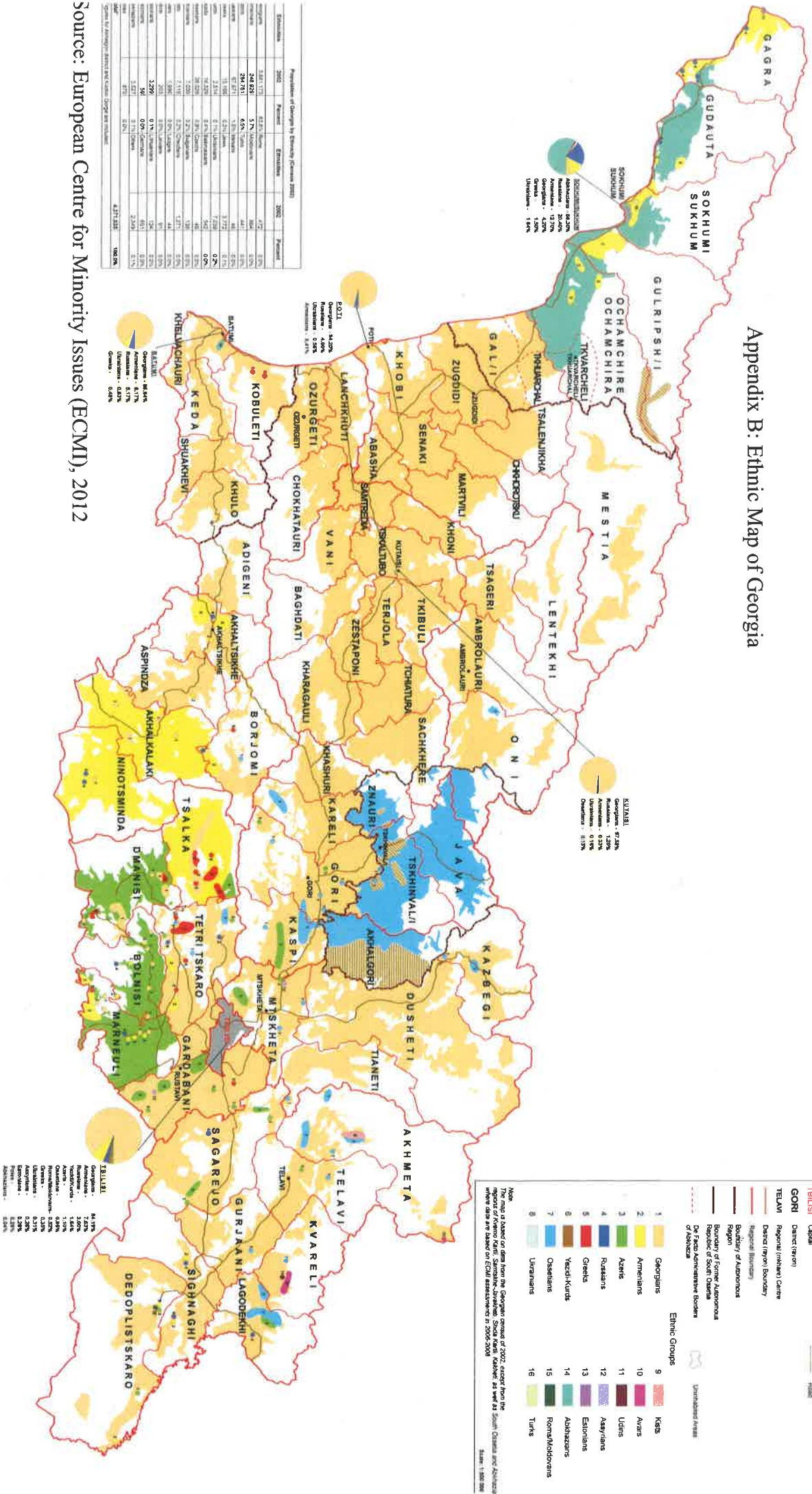
Appendix A: The number of legislative and policy changes in Latvia, May 2004 - May 2015.

	Education	Language	Citizenship	Other
Aug-04			1	
Sep-04			1	
Oct-04				
Nov-04		1		
Dec-04		1		
Jan-05				
Feb-05		1		
Mar-05				
Apr-05				
May-05				
Jun-05				
Jul-05				
Aug-05			1	
Sep-05			1	
Oct-05			1	
Nov-05				
Dec-05		1		
Jan-06				
Feb-06				
Mar-06				
Apr-06				
May-06				
Jun-06				
Jul-06				
Aug-06			1	
Sep-06				
Oct-06				Elections to the 9 th Saeima
Nov-06				
Dec-06				
Jan-07				
Feb-07				
Mar-07				
Apr-07				1
May-07				
Jun-07				
Jul-07				
Aug-07				
Sep-07				
Oct-07				
Nov-07				
Dec-07				

Jan-08					
Feb-08					
Mar-08					
Apr-08					
May-08		1			
Jun-08	1	1		1	
Jul-08		1		2	
Aug-08				First Cluster	
Sep-08					
Oct-08	1				
Nov-08					
Dec-08		1			
Jan-09					
Feb-09					
Mar-09					
Apr-09					
May-09					
Jun-09					
Jul-09					
Aug-09		1			
Sep-09					
Oct-09					
Nov-09					
Dec-09					
Jan-10					
Feb-10					
Mar-10	1				
Apr-10					
May-10		1			
Jun-10		1			
Jul-10					
Aug-10					
Sep-10					
Oct-10				Elections to the 10 th Saeima	
Nov-10					
Dec-10					
Jan-11					
Feb-11					
Mar-11					
Apr-11		2		Second Cluster	
May-11					
Jun-11					
Jul-11		1	1		1
Aug-11		1			

Sep-11					Elections to the 11 th Saeima
Oct-11				1	
Nov-11					
Dec-11					
Jan-12	1				
Feb-12		1	1		Third Cluster
Mar-12				1	
Apr-12					
May-12		1			
Jun-12				1	
Jul-12				1	
Aug-12					
Sep-12					
Oct-12		1			
Nov-12					
Dec-12					
Jan-13				1	
Feb-13					
Mar-13					
Apr-13					
May-13					
Jun-13					
Jul-13					
Aug-13					
Sep-13					
Oct-13				1	
Nov-13					
Dec-13					
Jan-14					
Feb-14				1	
Mar-14					
Apr-14					
May-14		1			
Jun-14				1	Fourth Cluster
Jul-14		1			
Aug-14					
Sep-14	1	1			
Oct-14		3			
Nov-14			1		
Dec-14					
Jan-15					
Feb-15				1	

Appendix B: Ethnic Map of Georgia



Population of Georgia by Ethnicity (Census 2002)

Ethnicity	2002	Percent	2002	Percent
Georgians	3,841,720	82.7%	3,841,720	82.7%
Armenians	204,250	5.1%	204,250	5.1%
Russians	178,271	4.6%	178,271	4.6%
Abkhazians	13,900	0.4%	13,900	0.4%
Ossetians	11,200	0.3%	11,200	0.3%
Others	1,200	0.0%	1,200	0.0%

Source: European Centre for Minority Issues (ECMI), 2012

LEGEND

- Tbilisi** Capital
 - Gori** District (town)
 - Telavi** Regional (municipal) Center
 - Dashed (brown) Boundary District (town) Boundary
 - Solid (red) Boundary Regional Boundary
 - Solid (black) Boundary Boundary of Autonomous Region
 - Solid (grey) Boundary of Former Autonomous Republic of South Ossetia
 - Dotted (black) Boundary of Former Autonomous Republic of Abkhazeti
 - Grey wavy line International River
- Ethnic Groups**
- 1 Georgians
 - 2 Armenians
 - 3 Abkhazians
 - 4 Russians
 - 5 Greeks
 - 6 Yezidi/Kurds
 - 7 Ossetians
 - 8 Ukrainians
 - 9 Kists
 - 10 Avars
 - 11 Udihs
 - 12 Assyrians
 - 13 Estonians
 - 14 Abkhazians
 - 15 Roma/Moldovans
 - 16 Turks
- Note: Map is based on data from the Georgian census of 2002, except for the regions of Abkhazeti, Samegrelo-Zemle SW and Gurjaani, where data are based on ECMI assessments in 2005-2006. Scale: 1:800,000

Appendix C: List of interviews

Latvia

Aija Tuna, Former Head of Education Programme, SOROS Foundation, Interviewed on 16 March, 2015

Dr. Andrew Berdnikov, Activist of the "Dawn" ("For the Russian language"), Interviewed on 24 March, 2015

Boris Cilevics, MP from Concord Centre, Human Rights and Public Affairs Committee, Interviewed on 2 April, 2015

Ejzhenija Aldermane, Former Head of the Naturalisation Board, current Deputy of the Riga City Council, Chairman of the Committee on Education, Interviewed on 24 March, 2015

Elizabeth Krivtsova, Lawyer, Human rights activist and member of the Congress of Non-citizens, Interviewed on 26 March, 2015

Igor Pimenov, MP from Concord Centre, b. Secretary Member of Commission for Europe, the founder and long-time head of the Latvian association in support of schools with Russian as the language of instruction (LASHOR), Interviewed on 23 March, 2015

Iлона Stalidzane, Head of Projects and Society Integration Division, Riga City Council, Interviewed on 24 March, 2015

Irina Vinnika, Former Head of Secretariat for Integration, current Deputy of the Riga City Council, Interviewed on 24 March, 2015

Inese Lībiņa-Egner, Lawyer, vice-speaker of the parliament, the head of the Latvian delegation to PACE, Interviewed on 15 April, 2015

Iveta Kazhoka, Researcher, Center Providus, Interviewed on 27 March, 2015

Janis Tsitskovskis, Deputy Director of the Department of Citizenship and Immigration, Chief Specialist on citizenship, Interviewed on 27 March, 2015

Liesma Ose, Former Program Director of the Soros Foundation, Advisor to the Minister of Education, Interviewed on 16 March, 2015

Ligita Grigule, Consultant on Education Policies in Latvia and Georgia, Interviewed on 26 March, 2015

Lolita Chigane, MP from Unity Party, the chairman of the Commission for Europe, Interviewed on 23 March, 2015

Maria Golubeva, Researcher, Center Providus, Interviewed on 18 March, 2015

Svetlana Dyachkova, Researcher, Latvian Centre for Human Rights, Interviewed on 17 March, 2015

Vladimir Sokolov, Chairman of the NGO "Union citizens and non-citizens", Interviewed on 17 March, 2015

Georgia

Eka Chitanava, Director, Tolerance and Diversity Institute (TDI), Interviewed on 22 November, 2014

Giorgi Gamkrelidze, Researcher, Human Rights House Network, Interviewed on 15 November, 2014

Giorgi Gotsiridze, Lawyer, Georgian Young Lawyers' Association (GYLA), Interviewed on 12 November, 2014

Dr. Giorgi Sordia - Senior Research Associate, European Centre for Minority Issues (ECMI) Caucasus Office, Interviewed on 12 November, 2014

Halida Kerimova, Activist, Azerbaijani Youth NGO in Georgia, Interviewed on 11 November, 2014

Irakli Kokaia, Head of Department of Migration, Repatriation and Refugee Issues, Ministry of Internally Displaced Persons From the Occupied Territories, Accommodation and Refugees of Georgia, Interviewed on 25 November, 2014

Koba Chopliani, Coordinator of the Council of National Minorities (CNM), Office of Public Defender (Ombudsman) of Georgia, Interviewed on 29 November, 2014

Konstantine Peradze, Project Coordinator, Civil Society Support Program, Open Society Foundation Georgia, Interviewed on 25 November, 2014

Lela Tshitishvili, Chief specialist, Civic Integration Programme, Ministry of Education and Science of Georgia, Interviewed on 14 November, 2014

Mako Chilashvili, Director at the Teacher's House, Ministry of Education and Science of Georgia, Interviewed on 24 November, 2014

Nino Gogoladze, National Programme Manager, High Commissioner on National Minorities (OSCE), Interviewed on 14 November, 2014

Dr. Oliver Reisner, Attaché (Project Manager), Civil society, Higher Education, Culture, Social and Labour Affairs, Delegation of the European Union to Georgia, Interviewed on 22 November, 2014

Rusudan Chanturia, Deputy Chief of Party, UN Association of Georgia (USAid projects), Interviewed on 23 November, 2014

Tamta Mikeladze, Civic Education and Activism Program Director, Human Rights Education and Monitoring Center, Interviewed on 17 November, 2014

Tamuna Kintsirashvili, Chair of the Board, Media Development Foundation (MDF), Interviewed on 23 November, 2014

Tinatin Gogeliani, Head of Civic Integration Unit, Office of the State Minister of Georgia for Reconciliation and Civic Equality, Interviewed on 18 November, 2014