



LATVIJAS REPUBLIKAS ĀRLIETU MINISTRS

MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF LATVIA

Riga, *February 5*, 2018

Dear Special Rapporteur,

In reply to your letter dated 17 December 2017, regarding the “Law on the Status of a Participant of World War II” (hereafter – the Law), I would like to provide you with the following information.

The Law was adopted by the Parliament on 21 December 2017. It was promulgated by the President of Latvia on 4 January 2018. The Law has come into force on 1 February 2018. The Law grants the status of a participant in World War II to Latvian citizens who during the war fought against the USSR or Nazi Germany or allied military formations in regular military units of other countries. The purpose of the Law is to promote common understanding in society regarding World War II and equal treatment of the participants of this war.

In accordance with the Law, the participants of World War II will receive special certificates and commemorative pins.

The Law authorizes local authorities to decide on additional social guarantees for the participants of World War II¹.

In the process of its preparation, the draft Law was discussed with a number of civil society organisations and war veterans organisations, namely: The World War II Association – Latvian National Soldiers Association, NGO “Daugavas Vanagi”, Association of National Partisans, Association of Latvian Officers, Latvian Riflemen Association, Aviation Veterans Foundation, as well as with the Museum of the Occupation of Latvia and Commission of Historians of State President’s office.

The Law has a strictly defined territorial and temporal scope, namely, the territory of the Republic of Latvia on the moment of its illegal occupation by the USSR on 17 June 1940,

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¹ Article 6. Municipalities may adopt specific provisions in their binding regulations to grant particular social assistance to holders of the status of the Participant of World War II in form of budget financing for specific benefits and municipal duty or municipal service fee discounts.

until the end of World War II on 2 September 1945. Therefore, the subjects of the Law are defined based on their legal status and ties with the Republic of Latvia on 17 June 1940, as on that date the Republic of Latvia lost its ability to protect its citizens and legal residents, many of whom were conscripted to the armed forces of the occupying forces – the USSR and Nazi Germany, in blatant violation of international law provisions. In other words, the Law is applicable to persons falling under the jurisdiction of the Republic of Latvia in accordance with international law on the moment of its illegal occupation.

The temporal scope of the Law reflects the State continuity doctrine; Article 1 recalls that the Republic of Latvia is not legally responsible for the offences committed by occupation regimes within the territory of the Republic of Latvia during its occupation and that, as an occupied country, the Republic of Latvia did not take part in warfare during World War II.

The Republic of Latvia never equates the ethnic origin of the person with his/her legal status in the country, and any question implying to the contrary is misleading at best. There is absolutely nothing in the Law that would link the eligibility of the person to the status of World War II participant with the ethnic origin of that person. The subjects of the Law are those current Latvian citizens who were also citizens of Latvia on 17 June 1940; those current Latvian citizens who had entered Latvia legally and were its permanent residents on 17 June 1940; and those current Latvian citizens who, on 17 June 1940, had the right to obtain Latvian citizenship based on the Law on Nationality as it was in force on 17 June 1940, if these citizens, permanent residents and relevant persons participated in the armed fight against the USSR, Nazi Germany or allied military formations thereof in the period between 17 June 1940 and 2 September 1945 within the regular military units of other countries, unless any of the restrictions listed in Article 3 of this Law apply.

According to Article 3 of the Law, the status of a participant of World War II cannot be conferred upon persons convicted for crimes against humanity or similar crimes. The Law absolutely precludes granting the status to persons who have operated in repressive structures of one or the other warring side or have perpetrated war crimes or crimes against humanity. This refers to members of the National Socialist German Workers' Party of Nazi Germany or its paramilitary organisation and the secret police and the security service of that regime. Neither will the status be given to persons who have served in the Committee for State Security (KGB) of the USSR or the Latvian Soviet Socialist Republic, except employees of the committee's planning, finance, administrative and economic departments.

As concerns the former citizens of the USSR who are not citizens of the Republic of Latvia or any other state, these persons by definition were not under the jurisdiction of the Republic of Latvia at the moment of its occupation, as the status of "the former citizen of the USSR who is not citizen of Latvia or any other state" was created only in 1995. The Government submits that if a State decides to make reparation for injuries for which it bears no responsibility, it has a great deal of discretion, especially when it comes to determining the terms and beneficiaries of the reparation.²

² *Epstein and Others v. Belgium* (Application no.9715/05), decision of the European Court of Human Rights, 8 January 2008.

Furthermore, regarding the scope of persons to whom the law would apply, the government demonstrates judicial consistency – a similar approach was used in the Law of the Republic of Latvia “On Determination the Status of a Politically Repressed Person to the Victims of the Communist and Nazi Regimes” of 12 April 1995 (“*Par politiski represētās personas statusa noteikšanu komunistiskajā un nacistiskajā režīmā cietušajiem*”), which defines that “victims of the Communist regime” are citizens of Latvia, Estonia, Lithuania, Finland and Poland, Latvians, Livs, and persons who entered the country legally before 17 June 1940, as well as their descendants, and who lived there permanently from that time or were politically repressed during the period 8 May 1945 until 21 August 1991.

Any attempts to link the Law with the glorification of Nazism or allege that it does not comply with the United Nations General Assembly resolutions “Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance” are completely groundless.

During the World War II Latvia suffered from the occupation of two totalitarian regimes – the USSR and Nazi Germany. Latvia was a victim of that war, as its statehood was annihilated as the result of the military aggression of the USSR. World War II brought immense suffering – the Republic of Latvia lost nearly one-third of its population. The occupying powers– Nazi Germany and the USSR – breached the 1907 Hague Convention and illegally drafted Latvian citizens and legal residents to serve in their military formations. The assertion of the so-called “Latvian volunteer Waffen SS legion” as a part of SS organisation is wrong in its substance; the inhabitants of the occupied Latvia could not become the members either of the Nazi Party or the SS organisation. Furthermore, it is completely inappropriate to consider as “volunteers” the members of Latvia’s society that were illegally mobilised during the occupation. Most of these people had no choice, and they can hardly be called “Nazi collaborators”. Draft evasion was punishable by death by the German authorities.

Additionally, Judgment of the International Military Tribunal (Conclusions, The SS section) clearly states that “Tribunal declares to be criminal within the meaning of the Charter the group composed of those persons who had been officially accepted as members of the SS as enumerated in the preceding paragraph who became or remained members of the organisation with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter or who were personally implicated as members of the organisation in the commission of such crimes, *excluding, however, those who were drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes*” (emphasis added). The illegally drafted Latvian citizens and legal residents clearly fall within this exception.

On 1 September 1950, the US Displaced Persons Commission concluded that “the Baltic Waffen SS Units (Baltic Legions) are to be considered as separate and distinct in purpose, ideology, activities, and qualifications for membership from the German SS.” Latvian authorities have consistently condemned all crimes against humanity committed by both totalitarian regimes. Latvia has always strongly condemned Nazism that formed the ideological foundation of the crimes against humanity committed during World War II, and categorically denounces the Holocaust, mourns its victims and is strongly committed to education, remembrance and research of the Holocaust.

Turning to the question of whether the Law is compatible with Latvia’s international

obligations, in particular the Convention on the Elimination of all Forms of Racial Discrimination (CERD), I would like to refer to Article 1, paragraph 2 of the CERD that states, "Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens". I wish to note that the Committee on the Elimination of Racial Discrimination has construed this exception strictly but none of the developments in human rights law, including the European Convention on Human Rights, have abolished the sovereign right of a State to impose distinctions between citizens and non-citizens in so far as their purpose or effect contains no element of discrimination based on race, colour, descent, or national or ethnic origin. In this regard, I wish to once again reiterate that nothing in the Law even remotely links the status of the World War II participant to the race, colour, national or ethnic origin of the person.

I would like to further recall the general obligations of States Parties of the CERD to ensure that there exist legal guarantees to effective protection and remedies. In this regard, I wish to refer to Common Core Document of the Republic of Latvia³, part IIB, describing legal framework for protection of human rights at the national level (paragraphs 89-96 and 109-114). In this context, the Law envisages the right of a person to challenge before the court a decision on refusing the status of the World War II participant. Furthermore, any person has the right to submit a constitutional complaint on the compliance of the laws with international agreements binding upon Latvia and with the Constitution (see paragraphs 48 and 115-119 of the Common Core Document). Thus, the domestic legal and institutional framework offers adequate protection for individuals in ensuring the possibility to challenge the compatibility of the provisions of the Law with international agreements, including CERD.

Clearly, the Law is well within the State's margin of appreciation and fully complies with Latvia's international obligations.

Regarding your question about teaching World War II history in schools, I wish to draw your attention to the following information. According to the Latvian school curriculum established by the relevant Government's agency, questions regarding the World War II, its causes and results are included in the basic education curriculum for the Grade 9; the coverage of the topic amounts to approximately 17% of the total number of history classes on history of Latvia and 20% on World history. Similarly, for the Grade 12 the history of the World War II composes about 12% of the total number of history classes. In the context of Latvia's history, the curriculum deals with the people's suffering and the impact of both the Nazi as well as the Communist totalitarian ideologies. Observance of national holidays, days of remembrance and commemoration and organisation of commemorative events at schools is also a part of educating the younger generation about the painful history of the World War II and its consequences for Latvia.

Referring to concerns mentioned in your letter⁴ that there is "*an increasing number of events and statements honouring former Nazi collaborators and rising levels of xenophobia and intolerance, especially against Russian speaking minority in Latvia*", let me assure you that these allegations are baseless and have nothing in common with the situation on the ground in Latvia. We have witnessed such accusations mainly in the

³ HRI/CORE/LVA/2017

⁴ [...it is reported that the drafting of the law occurs in the context of an increasing number of events and statements honouring former Nazi collaborators; restrictions on events and memorials for those who fought against Nazi Germany; and rising levels of xenophobia and intolerance, especially against Russian speaking minority in Latvia.]

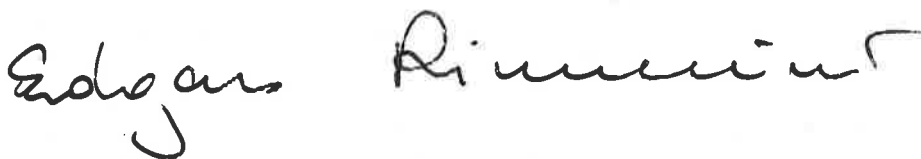
political rhetoric of one country, none of them have ever been factually substantiated by credible independent observers or reports of international organizations.

As a democratic state Latvia always condemns any manifestations of racism, xenophobia or intolerance. The few isolated instances of this kind in the past have been exclusively marginal in character, and there has been a downward trend for such manifestations over the recent years. Combating racial, ethnic and religious intolerance has always been among the Government's priorities.

Latvian society historically has been multicultural; our ethnic, linguistic and religious diversity is respected and protected. There has never been any interethnic strife in Latvia, on the contrary – it has a long-term history of interethnic tolerance. The OSCE High Commissioner on National Minorities has assessed the inter-ethnic situation in Latvia as calm as recently as January 2018. Be assured that Latvia is dealing with its historic legacy successfully and in a fully democratic manner.

I hope that you will find information provided in this letter useful, and I avail myself of this opportunity to express to you the assurances of my highest esteem and consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Edgars Rinkēvičs'. The signature is fluid and cursive, with the first name 'Edgars' written in a larger, more prominent script than the last name 'Rinkēvičs'.

Edgars Rinkēvičs

Attachment: An unofficial translation of the "Law on the Status of a Participant of World War II".

Unofficial translation

**The Saeima has adopted and
the President has proclaimed the following law:**

“On the Status of a Participant of World War II”

Article 1. Acknowledging that the Republic of Latvia is not legally responsible for the offences committed by occupation regimes within the territory of the Republic of Latvia during its occupation and that, as an occupied country, it did not take part in warfare during World War II, the objective of this Law is to establish the status of the Participant of World War II for those citizens of Latvia, who, during this war, participated in the armed fight against the Union of the Soviet Socialist Republics (hereinafter – the USSR), Nazi Germany or allied military formations thereof as part of the regular military units of other countries, as well as to promote a unified understanding in society regarding World War II and equal treatment of the participants of this war.

Article 2. The status of a Participant of World War II shall be established for those current Latvian citizens who were also citizens of Latvia on 17 June 1940; those current Latvian citizens who had entered Latvia legally and were its permanent residents on 17 June 1940; and those current Latvian citizens who, on 17 June 1940, had the right to obtain Latvian citizenship based on the Law on Nationality as it was in force on 17 June 1940, if these citizens, permanent residents and relevant persons participated in the armed fight against the USSR, Nazi Germany or allied military formations thereof in the period between 17 June 1940 and 2 September 1945 within the regular military units of other countries, unless any of the restrictions listed in Article 3 of this Law apply.

Article 3. An individual shall not be deemed a Participant of World War II if any of the following conditions apply to them:

- 1) the individual has been a member of the National Socialist German Workers' Party of Nazi Germany or its paramilitary structure [SS (*Schutzstaffel*)];
- 2) the individual has been an employee of the German secret police [gestapo (*Geheime Staatspolizei*)], the secret service [SD (*Sicherheitsdienst des Reichsführers SS*)] or a member of its supporting units;
- 3) the individual has been an employee of the Committee for State Security (hereinafter – KGB) of the USSR or the Latvian Soviet Socialist Republic (hereinafter – LSSR) or its predecessor organisations (People's Commissariat for Internal Affairs, People's Commissariat for State Security, Ministry of State Security, Security Department of Ministry of Interior), an employee or a member of KGB or its predecessor organisations' destruction battalions, except individuals who were employees of planning, financial management or maintenance units of KGB of the USSR or LSSR;

4) the individual has been prosecuted for crimes against humanity, peace, or for war crimes, genocide, irrespective of whether conviction has been cleared or deleted;

5) the individual has been convicted and not been cleared of offences committed during World War II, which in the context of provisions of the Criminal Law applicable on the day of submission of application referred to in Article 4 are considered deliberately severe or grave, irrespective of whether conviction has been cleared or deleted;

6) the individual has entered Latvia based on the Soviet -Latvia Mutual Assistance Treaty of 5 October 1939 and secret protocol thereby, or as a result of this protocol, i.e., the individual has entered Latvia while serving in one of the military formations of the Soviet army or as a support personnel of the military formations of the Soviet army, spouse, underage child or a person under the guardianship of such individuals.

Article 4. (1) Applications for the status of a Participant of World War II shall be submitted to the Office of Citizenship and Migration Affairs. Applicants shall also submit a declaration of compliance with provisions of Article 2 of the Law, as well as other evidence from the National Archives of Latvia and archives or public registers of other countries certifying the compliance with provisions of Article 2 of the Law, if any of such documents are at the applicant's disposal. Individuals having the status of the Participant of the Great Patriotic War do not automatically qualify for the status of the Participant of World War II. When applying for the status of a Participant of World War II, individuals must also prove that they are not subject to any restrictions set out in Article 3 of the Law.

(2) The Office of Citizenship and Migration Affairs may request the Prosecutor General's Office of Latvia, the Supreme Court, the Centre for the Documentation of the Consequences of Totalitarianism of Constitution Protection Bureau, and the Information Centre of Ministry of Interior to make an official determination on whether the applicant is subject to any restrictions set out in Article 3 of the Law. Within one month of request, the National Archives of Latvia shall provide – free of charge – the Office of Citizenship and Migration Affairs with a certificate regarding the applicant's record, outlining information relevant to restrictions set out in Article 3 of the Law.

(3) To verify the individual's compliance with provisions of Articles 2 and 3 of the Law, the Office of Citizenship and Migration Affairs may officially, in writing, request other public bodies and individuals, including foreign archives, to provide additional information.

(4) If establishing of details of a particular case requires specific expertise, the Office of Citizenship and Migration Affairs may outsource such experts.

(5) A duly authorised official of the Office of Citizenship and Migration Affairs shall review the application for the status of the Participant of World War II and make the eligibility determination no later than four months after the filing of application.

(6) If it is found that an individual is subject to restrictions set out in Article 3 of the Law or is excluded from the scope of application of the Law, a duly authorised official of Office of Citizenship and Migration Affairs shall revoke the issued status of the Participant of World War II.

(7) Appeals against decisions of a duly authorised official of the Office of Citizenship and Migration Affairs based on provisions of Articles 4(5) and 4(6) shall be submitted to the Director of Office of Citizenship and Migration Affairs. Decisions of the Director of Office of Citizenship

and Migration Affairs may be appealed according to procedures set out in the Administrative Procedure Law. Such appeals shall be treated by the Administrative Court as priority.

Article 5. Holders of the status of the Participant of World War II shall receive a specific certificate and commemorative pin. The design and requirements for issuing, registering and use of certificates and pins shall be regulated by the Cabinet of Ministers.

Article 6. Municipalities may adopt specific provisions in their binding regulations to grant particular social assistance to holders of the status of the Participant of World War II in form of budget financing for specific benefits and municipal duty or municipal service fee discounts.

Transitional provisions

1. The Cabinet of Ministers shall adopt the regulations referred to in Article 5 of the Law by 1 May 2018.

2. In 2018, the necessary additional funding for the implementation of the Law by the Ministry of Interior (the Office of Citizenship and Migration Affairs) shall be allocated from line 02.00.00 *Emergency reserve* under the heading *Annual budget funding for redistribution* of consolidated national budget.

R. Vējonis

President of the Republic of Latvia

Riga

4 January 2018