LATVIJAS REPUBLIKAS ĀRLIETU MINISTRS

MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF LATVIA

Riga, 11 April 2018

Dear Mr Kaye,

With reference to your letter dated 1 February 2018, in which you inquired about the detention and expulsion of Mr Anatoliy Kurlaev and Mrs Olga Kurlaeva, I would like to inform you of the following.

All decisions related to inclusion in *the list of those foreigners for whom the entry into the Republic of Latvia is prohibited* are based on clearly defined criteria and take place irrespective of the individual's profession or occupation. Instead, this decision is related to the security concerns established by the competent authorities of the State concerned. For this reason, the expulsion of Mr Anatoliy Kurlaev and Mrs Olga Kurlaeva should be viewed in the context of Article 13 and, to the extent applicable, Article 9 of the International Covenant on Civil and Political Rights (ICCPR), rather than Article 19 of the ICCPR.

In this regard, I wish to recall that ICCPR does not grant subjective rights to individuals to enter foreign countries. As recognized by the Human Rights Committee (the Committee) in its General comment No.15, *"5. The Covenant does not recognize the right of aliens to enter or reside in the territory of a State party. It is in principle a matter for the State to decide who it will admit to its territory"*. I therefore wish to emphasise that under international law, Latvia possesses the sovereign right, not an obligation, to allow foreigners (in this instance – Mr Anatoliy Kurlaev and Mrs Olga Kurlaeva) on its territory. Consequently, Latvia's actions can in no way be interpreted as any kind of "sanctions" or "punishment", but rather – a use of its legitimate rights, based on national security considerations.

Furthermore, as stated by the Committee in the case of *Mansour Ahani v. Canada* (Communication No.1051/2002, paragraph 4.13), *"it is not for the Committee to test a sovereign State's evaluation of an alien's security rating"*, and that it would defer to such an assessment in the absence of arbitrariness.

Mr David Kaye
UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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The Immigration Law of the Republic of Latvia (the Immigration Law) sets the legal parameters for the decision on the inclusion in *the list of those foreigners for whom the entry into the Republic of Latvia is prohibited*, as well as establishes legal safeguards against arbitrariness.

The legal basis for inclusion of Mr Anatoliy Kurlaev and Mrs Olga Kurlaeva in *the list of those foreigners for whom entry into the Republic of Latvia is prohibited* is established in Article 61^1, paragraph 1, of *the Immigration Law*, which states that the Minister of the Interior has the authority to decide on the inclusion of a foreigner in *the list of those foreigners for whom entry into the Republic of Latvia is prohibited*, if competent State institutions have a reason to believe that a foreigner causes a threat to national security or public order and safety. This provision of the domestic law thus reflects the concept enshrined in Article 13 of the ICCPR that a person might be expelled if compelling reasons of national security exist. I wish to emphasise that in both cases – in respect of Mr Anatoliy Kurlaev and Mrs Olga Kurlaeva, opinions of competent national security authorities confirming existence of such threats were received.

The framework created by *the Immigration Law* is in full compliance with the standards enshrined in Article 13 of ICCPR. Firstly, *the Immigration Law* establishes the procedure for the decision-making and criteria to be taken into account when deciding upon the expulsion, thereby it satisfies the requirement that expulsion must be done in pursuance of a decision reached in accordance with law. Secondly, the legitimate aim for expulsion pursuant to the relevant provisions of *the Immigration Law* is protection of national security, which thus satisfies the criterion required by Article 13 of the ICCPR that there must exist "compelling reasons of national security". Finally, *the Immigration Law* provides adequate and accessible procedural safeguards, namely, the decision on the expulsion adopted by the Minister of the Interior is subject to an appeal before the judiciary – the Department of the Administrative Cases of the Supreme Court – which allows the individual to "to contest his/her expulsion and submit reasons to argue against it and to have his case reviewed" by independent and competent domestic tribunal.

I wish to reiterate that the expulsion of Mr Anatoliy Kurlaev and Mrs Olga Kurlaeva is not related to their work as journalists. I also wish to recall that both of them had arrived in Latvia on tourist visas and declared tourism and leisure as the purpose of their travel.

I also wish to emphasise that the entry in Latvia is in no way a prerequisite for the exercise of the right to freedom of opinion and expression. Therefore, there has been no interference with the right guaranteed by Article 19 of ICCPR.

The actions of Latvian authorities are also in line with the Article 9 of ICCPR. As mentioned above, there was no arbitrariness in detention and expulsion of Mr Anatoliy Kurlaev and Mrs Olga Kurlaeva, the decision was based on opinions of competent national security authorities. At the time of detention Mr Anatoliy Kurlaev and Mrs Olga Kurlaeva were informed about the reasons of their expulsion and their rights to appeal (which they both have already used). This information was explained to them in their native language – Russian. Mr Anatoliy Kurlaev and Mrs Olga Kurlaeva were also informed of their

entitlement to legal assistance.

Let me reassure you that, both nationally and internationally, Latvia is strongly committed to promoting of a free, independent and pluralistic media and professional journalism. Latvia's good record in this area has been recognized internationally, and Latvia ranks among top 30 countries in the World Press Freedom Index 2017. The Latvian Constitution guarantees full freedom of expression and media, and the Government diligently upholds these rights in practice. Latvia is highly committed to and fully implements all fundamental human rights and freedoms, including freedom of expression.

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

Yours sincerely,

Edgars Rinkēvičs