



*Latvijas Republikas pastāvīgā pārstāvniecība ANO Ženēvā
Permanent Mission of the Republic of Latvia to the United
Nations Office in Geneva*

UN-G-29445

The Permanent Mission of the Republic of Latvia to the United Nations Office and other international organizations in Geneva presents its compliments to the United Nations Office of the High Commissioner for Human Rights and, with reference to Joint Communication of Special Procedures nr. JOL LVA 1/2022, dated 28 September 2022, has the honour to submit the response of H.E. Mr Edgars Rinkēvičs, Minister of Foreign Affairs of the Republic of Latvia.

The Permanent Mission of the Republic of Latvia to the United Nations Office and other international organizations in Geneva avails itself of this opportunity to renew to the United Nations Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Enclosed: letter of Minister of Foreign Affairs of the Republic of Latvia.

Geneva, 23 December 2022



United Nations Office of the High Commissioner for Human Rights



Ārlietu ministrija

Ministry of Foreign Affairs of the Republic of Latvia

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Riga

22 December 2022

No. 37-29305

Dear Mr de Varennes, Ms Shaheed
and Ms Xanthaki,

I acknowledge receipt of your letter of 28 September 2022, asking to provide comments on several matters pertaining to the recent amendments to the *Education Law* and the *General Education Law* (hereinafter – the Amendments).

After careful examination of the concerns presented in your letter and Latvia's international obligations in the field of securing human rights of persons belonging to national minorities invoked therein, I would like to provide you a detailed information allowing to conclude that the measures taken by Latvia in the context of the reform of its education system comply with Latvia's international commitments.

The present response consists of two parts. The first part contains additional information on the factual circumstances on which your concerns and conclusions about alleged infringements are based with a view to supplement and clarify them. The second part provides answers as to Latvia's compliance with its international commitments and as to the participation of persons belonging to national minorities in the drafting of the legislative amendments at issue and throughout the legislative process. It also provides answers to the questions on statistical data.

I. Factual information

I.1. Historical background

During the Soviet occupation of Latvia, migrants in large numbers from the territories of the other former USSR Republics arrived in Latvia. In 1951-1990, immigration rates exceeded emigration rates in Latvia, and, during certain periods, the increase in migration amounted to one of the highest in the world. Consequently, during the period of the Soviet occupation of Latvia, the proportion of the population of Latvian ethnicity decreased significantly. For example, in 1959, 62% of the total population of Latvia were Latvians, while in 1989, only 52%. Thus, in 1989, 48% of the total population of Latvia were people of other ethnicities, i.e., 34% – Russians; 4.5% – Belarusians; 3.5% – Ukrainians; 2.3% – Poles, while the proportion of other ethnicities was below 2%.

Mr Fernand de Varennes, UN Special Rapporteur on Minority Issues
Ms Farida Shaheed, UN Special Rapporteur on the Right to Education
Ms Alexandra Xanthaki, UN Special Rapporteur in the Field of Cultural Rights

Because of the migration facilitated by the USSR as the occupying power, the use of languages became a significant political issue. Although many of the migrants arriving in Latvia from other former USSR territories were not of Russian ethnicity, the only language of their communication in Latvia was Russian. In other words, the language spoken by the non-Latvian population was Russian irrespective of their ethnicity. Namely, during Latvia's occupation by the USSR, the issue of communication was resolved by imposing on ethnic minorities russification policy that established the Russian language as the language for daily communication, thus the non-Russian minorities largely lost their languages and cultures. The use of the Russian language was likewise imposed in the State institutions.

One of the primary directions of the russification policy was education, where russification was achieved by paying special attention to teaching the Russian language in schools with the Latvian language as the language of instruction, and by establishing schools with the Russian language as the only language of instruction. This, in turn, created a segregated education system.

After the restoration of Latvia's independence, the outcome of the russification policies that were implemented by the USSR required the newly re-established domestic authorities to adopt and develop special long-term protective measures to ensure, maintain, and develop the Latvian language as the official State language and the common language in the society, and to help restore the linguistic and cultural diversity of the country.

I.2. The education reform in Latvia

In order to strengthen the use of the Latvian language and create a cohesive and united society, in the middle of 1990s, Latvia commenced the reform of its education system, stage by stage increasing the proportion of the Latvian language as the language of instruction in the education programmes for minorities. Since then, the reform has been a steadily implemented process, and should be assessed as one of the means to overcome the consequences of Latvia's occupation that lasted for over 50 years.

In the course of the reform, Latvia has strengthened a unified education system that is accessible to every pupil, and the use of the Latvian language in State, municipal and private education institutions that implement the State-recognised education standard. The relevant changes in the education system have been introduced successively over many years, giving time for education institutions to adapt and to ensure gradual increase of the use of the Latvian language in each subsequent level of education.

The overall reform of minority education system is closely linked to the general reform of the Latvian education system – the transition to competence-based learning content (improved learning content, structure and methodology).

The stage of education reform introduced as of 2018 significantly increased the use of the Latvian language in each subsequent level of education. Accordingly, today both public and private education establishments in Latvia provide either education programme in the Latvian language or education programmes for minorities. Thus, the studies are organised either only in Latvian or bilingually (in the Latvian language and a given minority language). The (bilingual) education in schools that implement minority education programmes is implemented according to the following language distribution: (1) from 1st to 6th grade not less than 50% of learning process is provided in Latvian and 50 % in a minority language; (2) from 7th to 9th grade not less than 80% of learning process is provided in Latvian and 20 % in a minority language; (3) from

10th to 12th grade the learning process is provided in Latvian; and minority pupils maintain the right to study their language, literature and historical subjects in their mother tongue.

Further, the Amendments adopted on 29 September 2022 by the Latvian Parliament (*Saeima*) introduce the latest stage of the education reform. Namely, the Latvian language as the language of instruction will be gradually introduced throughout all education levels. As of 1 September 2023, the basic education programme of general education will be implemented in Latvian in the 1st, 4th and 7th grades. As of 1 September 2024 – in the 2nd, 5th and 8th grades. Finally, as of 1 September 2025 – in the 3rd, 6th and 9th grades. Starting from 1 September 2023, with the aim to prepare children for commencing their primary education, pre-school education programme will be implemented in the State language.

It should be emphasised that children and pupils will have the right to study minority language and cultural history (in the minority language) in interest-related education programs funded by the State and local governments.

I.3. Support measures for teachers and pupils

Throughout the education reform, for more than 20 years, a wide range of support measures have been provided both to teachers and pupils.

Teachers have been ensured with various trainings, seminars, courses, methodological and study materials. The most recent support measures provided to teachers encompass: Latvian language courses, practical lessons on the Latvian cultural history, intensive courses of the Latvian language and culture, training programmes for the development of professional competence, experience exchange events and cooperation events (camps). Methodology courses, language classes and individual consultations for teachers have also been provided. The support for pupils belonging to national minorities includes psychological support, teaching aid and diverse learning materials (including digital and board games, animation movies, dictionaries, an app for learning the Latvian language) for pupils of different ages and levels of comprehension of the language, available free of charge in various formats (paper and digital). Moreover, Latvia will continue to provide aid and support measures to teachers and pupils in the future, as well.

II. Answers to the specific questions

II.1. Latvia's compliance with its international obligations

In your letter, you refer to Latvia's international obligations under the Convention on the Rights of the Child (hereinafter – CRC), the International Covenant on Civil and Political Rights (hereinafter – ICCPR), the International Covenant on Economic, Social and Cultural Rights (hereinafter – ICESCR), the International Convention on the Elimination of all forms of Racial Discrimination (hereinafter – ICERD), as well as other international legally binding and non-binding instruments pertaining to the rights of persons belonging to national minorities, such as the right to use and practice their own language in community with other members of their group, to enjoy their own culture, to profess and practise their own religion.

Since the provisions of international instruments invoked in your letter pursue the same aim and therefore must be interpreted harmoniously, to avoid repetition and to act in the interests of efficiency, the arguments as to Latvia's compliance with its international commitments will be presented in their entirety, without dividing the arguments under each of the provision.

At the outset, I would like to emphasise that any person in Latvia belonging to a national

minority has the right to freely and without interference use her/his minority language in communication among their community in private and in public, orally and in writing, provided that the public interest to receive and impart information in the State language is respected. It should be recalled in this connection that according to the UN Human Rights Committee, as long as the national regulation does not deprive persons belonging to linguistic minorities from the right to freely use their language within their community or disproportionately infringe upon those rights, the respective State acts are in conformity with Article 27 of the ICCPR.¹

As concerns the education, Latvia ensures and will continue to ensure the right of children and pupils belonging to national minorities to learn their own language at all stages of the education reform, thus ensuring their development and preserving their ethnic and cultural identity.

Currently both public and private education establishments in Latvia provide education programme in the Latvian language or education programmes for minorities, which from the 1st to 9th grade are implemented bilingually (from 1st to 6th grade up to 50%; from 7th to 9th grade up to 20% in minority language); in the secondary school level (10th to 12th grade) the learning process is provided in Latvian. It should be reiterated that pupils belonging to minorities continue to study their language, literature and historical subjects in their mother tongue. Moreover, the Amendments stipulate that the State and local government authorities will continue to provide opportunities and funding for the interest-related education programmes for pupils belonging to national minorities. Namely, pursuant to Article 47³ of the *Education Law*, which is a part of the Amendments, the State and local governments will continue to safeguard the right of children/pupils belonging to national minorities to learn their minority language and cultural history, thus safeguarding their national peculiarities and protecting their minority rights.

Your allegation that the Amendments will severely limit education in minority languages implies that the provisions of the international treaties invoked in your letter establish an autonomous right to have any language, including a minority language, as a language of instruction in education, in a proportion of one's choice. Ultimately, it would mean that a person belonging to national minority could require that State establishes an education system in a language of their choice.

It should be recalled in this connection that neither the provisions of the CRC, nor the ICCPR, nor the ICERD, nor the ICESCR guarantee an autonomous right to choose a language other than the official or State language of the State concerned as the language of instruction in education in a proportion of one's choice. Neither the international instruments binding upon Latvia envisage a right for people belonging to national minorities to request that the State establishes a system where one could obtain education in a language of one's choice and in a proportion of one's choice. Nor the right to education enshrined in Article 13 of the ICESCR encompasses the right to access education in a particular language or proportion; instead it foresees the right to access education institutions existing at a given time.² Furthermore, States enjoy a wide discretion in organising their education system.

It should be noted that Article 13 of the ICESCR establishes the *4(a) approach*, according to which education must be available, acceptable, accessible, and adaptable. The UN Committee on Economic, Social and Cultural Rights has established in its General Comment no.13 regarding the right to education:

¹Communication No.1621/07 (*Raihan v. Latvia*); Concluding Observations on Latvia, UN Doc. CCPR/CO/79/LVA (2003), para. 8.6.

² The ICESCR, *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*, 8 December 1999, E/C.12/1999/10; the CRC, *General Comment No. 1 (2001), Article 29 (1), The aims of education*, 17 April 2001, CRC/GC/2001/1.

“[...] In relation to article 13 (2), States have obligations to respect, protect and fulfil each of the “essential features” (availability, accessibility, acceptability, adaptability) of the right to education. By way of illustration, a State must respect the availability of education by not closing private schools; protect the accessibility of education by ensuring that third parties, including parents and employers, do not stop girls from going to school; fulfil (facilitate) the acceptability of education by taking positive measures to ensure that education is culturally appropriate for minorities and indigenous peoples, and of good quality for all; fulfil (provide) the adaptability of education by designing and providing resources for curricula which reflect the contemporary needs of students in a changing world; and fulfil (provide) the availability of education by actively developing a system of schools, including building classrooms, delivering programmes, providing teaching materials, training teachers and paying them domestically competitive salaries.”³

Nevertheless, the choice of means to reach these objectives remains with the State. Therefore, in view of the foregoing, it must be concluded that States enjoy a wide margin of discretion in the choice of means to ensure the protection of the best interests of children/pupils belonging to minorities that would safeguard their minority culture, whilst ensuring advancement of their future opportunities, including the ability to meaningfully participate in the democratic political processes of the State concerned. This approach is generally accepted by the UN Committee on Elimination of Racial Discrimination, and it complies with the United Nations Declaration on Minorities.⁴

Furthermore, the UN Committee on the Rights of the Child, as well as the UN Committee on Economic, Social and Cultural Rights, when addressing issues regarding the right to education of children belonging to national minorities, have established that the obligation of States under the provisions of the CRC and the ICESCR is confined to providing a possibility to obtain education and an access to it.⁵

The aforesaid likewise follows from the conclusions of the UN Committee of Economic, Social and Cultural Rights and the UN Committee on Elimination of Racial Discrimination on the periodic reports submitted by Latvia. In particular, in 2021, the UN Committee on Economic, Social and Cultural Rights invited Latvia to ensure that its language policies in education do not cause direct or indirect discrimination. However, as can be seen, the UN Committee on Economic, Social and Cultural Rights underlined that this policy should be reviewed in the context of the quality of education, and not a right to obtain education in a minority language in a proportion of one's choice. Likewise, the UN Committee on Elimination of Racial Discrimination invited Latvia to ensure that there are no undue restrictions to obtain education in minority languages.

Consequently, the right to learn minority languages and to obtain education about subjects related to minority cultures and languages, is a right that relates to the cultural preservation of the characteristics of a given minority, and not a general right to have as language of instruction and in the proportion of one's choice the minority language. Finding otherwise would contravene the

³ CESCR, *General Comment No.13: The Right to Education*, 8 December 1999, E/C.12/1999/10, para.50.

⁴ *Inter alia*, see, UN CERD, *Concluding observations on Montenegro*, UN Doc. CERD/C/MNE/CO/2-3. Article 3(4): *Commentary on the United Nations Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities*, UN Doc. E/CN.4/AC.5/2001/2; Thornberry P. *Education*. In: Weller M., *Universal Minority Rights: A Commentary on the Jurisprudence of International Courts and Treaty Bodies*, Oxford: Oxford University Press, 2007, pp.325-362.; UN Human Rights Council, *Report of the Special Rapporteur on the Right to Education on the Promotion of Equality of Opportunity in Education*, UN Doc. A/HRC/17/29 (2011), para.63; *Recommendations of the Forum on Minority Issues*, UN Doc. A/HRC/10/11/Add.1 (2009), para.58.

⁵ UN Committee on the Rights of the Child (CRC), *General comment No. 1 (2001), Article 29 (1), The aims of education*, 17 April 2001, CRC/GC/2001/1; UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*, 8 December 1999, E/C.12/1999/10. See also Report of the Working Group on a Draft Convention on the Rights of the Child. Commission on Human Rights, Forty-first session Agenda item 13, UN Doc.E/CN.4/1985/64, 3 April 1985, paras.75 and further.

current practice and findings of different UN Human rights bodies. Moreover, establishing that the international instruments guarantee a right to education in a language of one's choice and in a proportion of one's choice would also manifestly disregard the various situations of linguistic groups in the territories of different UN member states, particularly in the light of contemporary trends of human mobility for the purposes of work or studies. Education in or of a minority language, aiming at protecting the culture of the minority group, in no way can be equated, or interpreted as giving rise to an autonomous right to obtain education in a minority language in a proportion of one's choice or the entire curriculum.

Furthermore, the provisions of international instruments referred to in your letter do not set an obligation for the States parties to maintain the education system static and unchanged. The guarantees enshrined in the international treaties, including the right to education enshrined in Article 13 of the ICESCR, extend to the protection of full development of the human personality, the sense of its dignity and culture; not the protection of a certain percentage of subjects taught in a minority language. The States remain free to choose the most appropriate measures to ensure appropriate and effective protection.

To conclude, I would like to underline that the legal obligations to which you refer in your letter, as well as the practice of international supervising bodies **do not recognise a subjective right to obtain education in specific (one's native) language or language of one's choice or in the proportion of one's choice**. Latvia has acted in good faith by increasing the proportion of the Latvian language as the language of instruction in education gradually, and in setting a sufficient transitional period for the amendments to take effect. The Amendments will enable education institutions, teachers and pupils to adapt and properly implement the amendments in practice, thus strengthening the overall availability, accessibility, acceptability, and adaptability of the education system and curriculum. National minority pupils will maintain the opportunity to learn subjects in their native language in order to preserve and develop their identity and culture.

II.2. Participation of persons belonging to national minorities

Latvia ensures comprehensive participation of the civil society, including representatives of national minorities, in the legislative process.

In Latvia, consultations with the civil society take place both during the drafting of the legislation, and the decision-making process at the Parliament. Public participation, including that of non-governmental organisations, is a mandatory requirement when drafting legislative acts (prior to their submission to the Cabinet of Ministers). In addition to that, members of the civil society can participate in the legislative process through the internet platform *ManaBalss.lv* where individuals can submit initiatives for a new regulation or law; every initiative that gathers 10 000 supporters, is sent as a proposal to the Parliament. The sittings of the Government are open to the public; representatives of mass media and non-governmental organisations, including those of national minorities, can participate; and it is also possible to follow the meetings online. The sittings of the Parliament and its commissions that examine draft laws are open, and transmitted on the radio. Minutes and recordings of the sittings of Parliament are available online.

Latvia's practice to hold consultations with civil society during the legislative process has been positively assessed internationally. For example, the Venice Commission (European Commission for Democracy through Law) of the Council of Europe in its opinion of 18 June 2020 on Latvia's education reform noted that *"there has been sufficient room for national minorities to voice their opinions and criticisms"*. Likewise, the consultation process has been welcomed by the High Commissioner on National Minorities of OSCE during his meetings with the Latvian officials in

2021.

As regards the participation of representatives of national minorities in the course of adoption of the Amendments, the following should be underlined. First, prior to the adoption of the Amendments, a number of consultation rounds took place with different Latvian civil society organisations, including representatives of national minorities. On 7 April 2022, the Ministry of Education and Science held a meeting with the Consultative Council of Minorities to discuss how to promote the learning of languages and cultural history of minorities, as well as how to support teachers implementing the reform. On 11 and 27 April 2022, the Government representatives met with various education institutions and embassies to discuss the possibilities of establishing programmes which would include minority language, literature, history, geography and culture in the curriculum

Secondly, from 8 April until 22 April 2022, the draft Amendments were put up for public consultations. During the consultations, 4,711 proposals were received from both individuals and non-governmental organisations (associations). It should be emphasised in this connection that in a democratic State governed by the rule of law, for the sake of good governance and transparency, it is important to ensure the process and platform for discussion, the civil society's participation, and expression of their views. At the same time, the principle of good governance does not require that each and every of submitted proposals and objections is taken into account. All of the proposals and objections to the draft law that were submitted were summarised, and each and any of them was carefully evaluated and discussed by the Ministry of Education and Science. Finally, a detailed explanation and justification of why it was or was not possible to take them into account was given.

Consequently, any allegations or concerns as to the lack of proper consultations with national minorities is unfounded. In the course of drafting and adoption of the Amendments, the representatives of national minorities were given proper and effective opportunity to express their views, ask questions and submit alternative proposals during Parliament's Commission for Education and Culture, thus respecting the principle of good governance.

II.3. As to the education and education institutions

II.3.1. As to the question about the "extent of children belonging to national minorities at the different levels of education to be taught in their own languages, the number of hours per week they will be instructed in their own languages and in Latvian language, and number of schools and children affected"

From 1 September 2023, the Latvian language as a subject will be ensured for 1st to 3rd grade pupils 6 hours per week; for 4th to 6th grade pupils 2-3 hours per week; for 6th to 9th grade pupils 3 hours per week; the Latvian Literature 1-2 hours per week for 1st to 6th grade pupils and 2 hours per week for 7th to 9th grade pupils.

It should be reiterated that pupil belonging to national minorities will have the right to learn their language and cultural history within the framework of the interest-related education programme. The minority interest-related education programme will be funded by the State and local governments. In addition to the interest-related education programme, minority languages and literature for the 1st to 9th grade pupils will be ensured for 3 hours per week.

It is expected that the Amendments will affect 13 345 children belonging to national minorities in pre-school education programme and 43 377 pupils in basic education programme in the school year 2023/2024. The Amendments will affect 992 teachers that provide education in accordance with the minority pre-school education programme and 4 905 teachers that provide

education according to the minority elementary education programme.

II.3.2. As to the question about the “extent of education institutions with instruction in minority language(s) – private and state funded – that have been operational in Latvia and their change over the period of the past 10 years and next 5 years”

In the school year 2022/2023, 6 education institutions founded by local governments are implementing pre-school education programme in minority languages (bilingually), 113 education institutions implement the pre-school education programme both in Latvian and minority languages (bilingually). 8 private education institutions provide pre-school education program in the minority language (bilingually) and 8 private education institutions implement education program in Latvian as well as in the minority language (bilingually).

In the school year 2022/2023, 19 education institutions founded by local governments implement the basic education program in the minority language (bilingually), 99 education institutions founded by local governments implement education program both in Latvian and minority languages (bilingually), 3 private education institutions implement the basic education program in the minority language (bilingually) and 11 private education institutions implement the basic education program both in Latvian and in minority language (bilingually). As for the past 10 years, please see the statistical data in annex.

Conclusions

I hope that you will find the foregoing information and answers to your questions provided in this letter useful and sufficient to assure you that the education reform in Latvia and, specifically the Amendments, fully comply with Latvia's international commitments in the field of protection of rights of persons belonging to national minorities to practice, maintain and develop their language in the community with other members of their group, develop and enjoy their cultural identity, values and religion, and are in the best interest of every individual or group of Latvia's society.

Please accept the assurances of my highest consideration.

Yours sincerely,



Edgars Rinkēvičs
Minister of Foreign Affairs of the Republic of Latvia