

**Mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

REFERENCE:  
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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolution 34/35.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the **draft law "On the Status of Participants of the Second World War (No. 611/ LP12)", which was passed by the Parliament of the Republic of Latvia in its second reading on 2 November 2017.**

Concerns regarding a similar draft law were raised in a communication sent to your Excellency's Government on 25 March 2013 (LVA 1/2013) by the previous Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. I regret that we have not received a reply to this communication.

On 11 May 2016, the Parliamentary Committee for Human Rights and Social Affairs submitted a draft law "On the Status of Participants of the Second World War (No. 611/ LP12)" to the Parliament of the Republic of Latvia (Saeima).

On 2 November 2017, the Parliament passed an amended version of the draft law in its second reading. A third reading is required before the law can be adopted and submitted to the President of Latvia for its proclamation in the official newspaper "Latvijas Vēstnesis". The third reading is reportedly scheduled for December 2017 and law is expected to come into force on 1 February 2018.

The draft law defines who can be considered as "participant" in the Second World War (WWII) and specifies the procedure for obtaining this status. Pursuant to article 1, the aim of the draft law is: to determine the "participant" status of Latvian citizens, regardless of whether they fought against the Soviet Union or Nazi Germany and its allies; to promote a common understanding of WWII; and to ensure that all "participants" living on the territory of Latvia are treated equally. According to article 5 of the draft law, successful applicants who are deemed "participants" in WWII would receive a certificate as well as a commemorative medal. In addition, article 6 of the draft law entitles local governments to provide social guarantees to those who have been granted "participant" status by granting them benefits and reduced rates for government services or fees.

Analysing the draft law vis a vis international human rights norms and standards, I am concerned that article 2 of the draft law appears to be discriminatory as it would deny the status of WWII "participants" to those veterans who were not considered citizens or

permanent residents of Latvia on 17 June 1940. It is reported that veterans of the Allies would be disproportionately disadvantaged by these restrictions. Many of them were born in Russia, Ukraine, Belarus, the South Caucasus and Central Asia and settled on Latvian territory only after 1945. Hence, the provision would effectively preclude many veterans who fought in the anti-Hitler coalition from applying for “participant” status.

In light of these concerns, I would like to remind your Excellency’s Government that Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by Latvia on 14 April 1992, obliges States parties to guarantee the right of everyone to equality before the law, without distinction as to race, colour, or national or ethnic origin. In its General Recommendation XXX on Discrimination against Non-Citizens (2004), the Committee on the Elimination of Racial Discrimination clarifies that “[u]nder the Convention, differential treatment based on citizenship [...] will constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim” (para. 4). The Recommendation also calls on States to ensure that the implementation of legislation does not have a discriminatory effect on non-citizens (para 7).

Moreover, the draft law allegedly commemorates persons who fought alongside the German army, placing Nazi collaborators on equal footing with those who fought against Nazism. In particular, the draft law might afford the status of WWII “participants” to persons who served in the Latvian Legion of the Waffen SS. On the one hand, Article 3 of the draft law stipulates that that “participant” status will be denied to certain persons, including former “members” of the National Socialist German Workers' Party and its paramilitary bodies (SS), former “employees” of the secret police (Gestapo), and “members” of security services (SD) or its subsidiary units. On the other hand, however, it is unclear whether article 3 would apply to members of the Waffen SS - one of the constituent groups of the SS. It is also unclear whether “service” in the Waffen SS Latvian Legion would be considered as “membership” in the SS. In this respect, I am concerned that the draft law fails to differentiate between persons who were “forcibly” conscripted to fight alongside the German Nazi Army and those who “volunteered” to do so.

While taking into account that your Excellency’s Government has reiterated its absolute condemnation of Nazism and other totalitarian ideologies during the Universal Periodic Review (A/HRC/32/15. Par. 52), I would like to recall Latvia’s obligation as per Article 4 of ICERD to condemn organizations “which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin”.

I would also like to refer your Excellency’s Government to General Assembly resolution 71/79 entitled Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance. This resolution expresses serious concern about the glorification, in any form, of the Nazi movement, neo Nazism and former members of the Waffen SS organization (para. 4). While cognizant that some consider that the Latvian

Legion did not fight for Nazism but rather to end the Soviet occupation and restore Latvian sovereignty, I strongly reiterate that resolution 71/79 expresses deep concern about attempts to declare members of the Waffen SS or “those who fought against the anti- Hitler coalition and collaborated with the Nazi movement participants in national liberation movements”. In this context, I recall the recommendation made by the European Commission against Racism and Intolerance that Latvian authorities condemn all attempts to commemorate persons who fought in the Waffen SS and collaborated with the Nazis (CRI, 2012 (3), para. 87).

With regards to the diverging interpretations of Nazi collaboration, I also recall that the Durban Declaration emphasizes the importance and necessity of teaching history “with a view to achieving a comprehensive and objective cognizance of the tragedies of the past” (para. 98). When my predecessor visited Latvia in 2007, Government representatives acknowledged the need to “bridge the gap in the interpretation of history between ethnic groups, particularly regarding symbolic events such as the Second World War, collaboration with the Nazis and the meaning of the Soviet occupation” (A/HRC/7/19/Add.3, para. 46). In this connection, the former Special Rapporteur recommended Latvia to promote a profound process of multiculturalism in Latvian society and to strengthen the unity of the nation (para. 93).

Finally, 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 the Russian speaking minority in Latvia. In this connection, it is also alleged that important stakeholders representing veterans of the Allies were not consulted or invited to participate in the drafting process of the law.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide details about the objective and current status of the draft law. If possible, please provide the dates of the third reading of the draft law as well as the schedule for its finalization and proclamation.
3. Please provide detailed information on measures taken to ensure that the draft law is consistent with Latvia’s obligations under international human rights law and standards.
4. Please explain the reasoning for restricting the status of WWII participant to those veterans who were considered citizens or permanent residents of Latvia on 17 June 1940. In this context, please provide statistics on the

number of veterans that would thus be precluded from applying for participant status.

5. Please provide information on measures taken to ensure non-discrimination and equality before the law of ethnic minorities and non-citizens residing in Latvia, including WWII veterans.
6. Please provide detailed information as to whether veterans who served in the Waffen SS would be eligible for the status as WWII participants. If yes, please specify whether and how the draft law differentiates between persons who were “forcibly” conscripted to fight alongside the German Nazi Army and those who “volunteered” to do so.
7. Please provide detailed information on any steps taken to include relevant stakeholders in discussions regarding the draft law, in particular civil society organisations and veterans of all WWII parties. In this connection, please elaborate on their role in the drafting process and provide details on any measures that are being taken to ensure their involvement in genuine consultations prior to the adoption of the draft law.
8. Please provide information on history classes provided for in the Latvian school curriculum with the aim of teaching students about the dramatic events and human suffering that arose out of the adoption of ideologies such as Nazism and Fascism.

I would like to kindly request your Excellency’s Government to share the content of this communication with the relevant legislative bodies in charge of the draft laws for their consideration.

I would appreciate receiving a response within 60 days.

While awaiting your response, we would like to call on your Government to take all steps necessary to conduct a comprehensive review of the draft law, ensuring its compliance with relevant international human rights standards.

Your Government’s response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

E. Tendayi Achiume  
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia  
and related intolerance