

**Mandates of the Special Rapporteur on the right to education; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on minority issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

REFERENCE:  
OL LVA 1/2019

24 September 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right to education; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on minority issues and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 26/17, 34/18, 34/6 and 34/35.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **adoption by the Cabinet of Ministers of the regulation on pre-school education No. 716, which appears to impose restrictions on the use of minority languages in pre-school educational institutions.**

A number of previous communications (e.g., OL LVA 1/2018 of 26 January 2018 and OL LVA 3/2018 of 8 November 2018) to your Excellency's Government have raised human rights law-based concerns about restrictions to the educational and linguistic rights of minorities in Latvia. We wish to thank your Excellency's Government for its comprehensive responses to these observations and expressed concerns. However, our mandates continue to receive information regarding legislation and policies that may affect the enjoyment of human rights by persons belonging to minorities and, in particular, with regard to their right to education and the use of and teaching in minority languages.

According to the information received:

On 21 November 2018, the Cabinet of Ministers adopted a new regulation No. 716 on pre-school education, stipulating that the official Latvian language will be the only medium of instruction and learning in pre-school classes for children between five and seven years old. The regulation came into force on 1 September 2019.

In Latvia, pre-school education is available for children between the ages of 1.5 and 7 years. Pre-school enrolment is, however, mandatory at the age of 5 and play-lessons constitute the main form of learning at this educational level.

Annex 2 of regulation No. 716 presents a model programme for minority pre-school educational institutions. In paragraph 9, the annex states that, for children

from the age of 5, the only medium of communication and instruction in play-lesson in minority pre-school educational institutions shall be the Latvian language, except for activities organised with the aim of learning a minority language and culture.

Adoption of regulation No. 716 coincided with the repeal of regulation No. 533 of 31 July 2012. The repealed regulation No. 533 had put forward a different educational approach, one reportedly more sensitive to minority children's mother tongue and to their educational needs. In its proposed model programme for minority pre-schools, regulation No. 533 had adopted a "bilingual approach" in play-lessons for the whole length of pre-school education covering children aged 1.5 to 7 years and had encouraged the creation of a "supportive environment for the acquisition of the official language". By contrast, regulation No. 716 mandates an "official state language approach" for education of pre-school children aged 5 and above.

In addition, we have received reports indicating that the consultations for the text of new regulation No. 716 started in April 2018. These reports state that input was sought from only a limited number of stakeholders, including local civil society organizations, without direct engagement with minority communities and their representatives, or with organizations working on human rights and in particular on the human rights of persons belonging to minorities.

Without prejudging the accuracy of the information we have received, we express our concern over the Cabinet of Ministers' adoption of the regulation No. 716 on pre-school education, mandating exclusive use of the Latvian official language in minority pre-school classes for children aged 5 and above. Regulation No. 716 replaced the relatively more inclusive regulation No. 533, which, before its repeal, provided for a bilingual approach for the entire pre-school period through age 7. We fear that regulation No. 716 regulation – in force as of 1 September 2019 – will harm minority children's equal enjoyment of their human right to education in Latvia. The exclusion of their mother tongue from pre-school learning activities may hinder these minority children's learning.

We also express our concern regulation No. 716 may violate the right of members of linguistic minorities to use their own language in community with other members of their group. We also fear that regulation No. 716 could lead to undue interference with the right to freedom of expression, which includes the right to seek, receive and impart information of all kinds, regardless of the language used.

Lastly, we express our concern over the reported lack of a wide consultation on the text of the new regulation, and find particularly troubling the reported absence of consultation with minority communities and their representatives, or with organizations working and advocating for the rights of persons belonging to minorities in Latvia. We wish to emphasize that achieving a truly inclusive and just society requires the effective participation of persons belonging to minorities in the formulation, adoption and implementation and monitoring, at the international, national and local levels, of laws and policies affecting them.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we 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 all relevant information regarding implementation of regulation No. 716 and, in particular, the measures put in place to ensure that pre-school minority children learn in their mother tongue.
3. Please provide disaggregated data on the number of children, classes and schools affected by regulation No. 716.
4. Please provide detailed information on the consultation process of the regulation No. 716 and the measures undertaken to ensure wide participation of all relevant stakeholders, including representatives from minorities and their organizations, in decisions affecting them, in particular with regard to their linguistic rights.
5. Please provide information about measures taken by your Excellency's Government to protect and promote the right of persons belonging to minorities, in community with the other members of their group, to use their own language.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Koumbou Boly Barry  
Special Rapporteur on the right to education

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

Fernand de Varennes  
Special Rapporteur on minority issues

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

## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to article 26 (2) of the Universal Declaration of Human Rights (UDHR) and article 13 of the International Covenant on Economic, Social and Cultural Rights, acceded to by Latvia on 14 April 1992, which stipulate that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms and that it shall promote understanding, tolerance and friendship among all nations.

We would like to recall your Excellency's Government's obligations under international human rights law that your Excellency's Government has undertaken. In particular, we would like to refer to the International Covenant on Civil and Political Rights (ICCPR) acceded to by Latvia on 14 April 1992. Article 27 of the Covenant states that: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language". Articles 2 and 26 of ICCPR also prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds, including race, language, religion, national or social origin, property, birth or other status.

We would equally like to refer to article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". This right is protected also through article 19 of the UDHR and article 13 of the International Convention on the Rights of the Child (CRC), acceded to by Latvia on 14 April 1992.

In this connection, we reiterate the principle enunciated in Human Rights Council Resolution 12/16 which calls on States to refrain from imposing restrictions on freedom of expression, including by persons belonging to minorities or vulnerable groups.

CRC establishes under article 29 (c) that the education of the child shall be directed to: "The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own." Article 30 of the Convention requires that "In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language."

Furthermore, we draw the attention of your Excellency's Government to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic,



Religious and Linguistic Minorities adopted by the General Assembly in 1992. Article 1 of this Declaration refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end. Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them. Article 4.1 establishes that “States will take measures where required, to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law”.

We also refer to you the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), acceded to by your Excellency’s Government on 14 April 1992. ICERD elaborates on States’ obligations to ensure racial equality and prevent forms of racial discrimination. ICERD article 1 defines “racial discrimination” as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” ICERD requires States to address both intentional and unintentional forms of racial discrimination and inequality. Article 2 (c) obligates States to “amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists”. Article 5 clarifies that States must ensure equality before the law and equal enjoyment of all human rights, including in rights to education, to participation in public affairs, to freedom of expression, and to participation in cultural activities.

We would also like to refer to the 2012 report by the Special Rapporteur on minority issues, which warned against state policies promoting a single national language as a means of reinforcing sovereignty, national unity and territorial integrity and called on states to ensure the legal recognition and legislative protection of minority languages and to make provisions and undertake policies to enable minorities to learn and be taught in their mother tongue (A/HRC/22/49, paragraphs 39, 41 and 83).

Finally, reference is made to the 2017 report of the Special Rapporteur entitled “Language Rights of Linguistic Minorities: A Practical Guide for Implementation”, which indicated that in relation to the use of a minority language in public schools where “there is a sufficiently high numerical demand, public education services must be provided in a minority language to the appropriate degree, broadly following a proportional approach. This includes all levels of public education from kindergarten to university. If demand, the concentration of speakers or other factors make this not feasible, state authorities should as far as practicable at least ensure availability of minority language teaching. In addition, all children must have an opportunity to learn the official language(s)” and in the case of private schools that the establishment and operation of private schools and educational services using minority languages as a medium of instruction should be allowed, recognized and even facilitated (HRC/NONE/2017/12, pages 16 and 21).