

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right to education; the Special Rapporteur on minority issues and the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights

REFERENCE:
AL LVA 1/2021

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right to education; Special Rapporteur on minority issues and Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, pursuant to Human Rights Council resolutions 43/4, 44/3, 43/8 and 45/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **adoption and enforcement of a series of measures which appear to impose limitations affecting the use of minority languages in Latvia**. In particular, we have received new information regarding education laws, some of which we had previously raised concerns about in 2018 and 2019, as well as about a range of new laws or related policies adopted or applied since 2020 that raise serious concerns about their potential effects on the enjoyment and promotion of minority linguistic rights in the country.

The United Nations Special Procedures have raised human rights law-based concerns about restrictions to the linguistic rights of minorities in Latvia through a number of previous communications sent to your Excellency's Government (e.g., OL LVA 1/2019, sent 24 September 2019, OL LVA 1/2018, sent 26 January 2018, and OL LVA 3/2018 sent 8 November 2018) to. We appreciate your Excellency's Government for its comprehensive responses to the observations and concerns that were expressed in all of the above listed communications, as well as for its consistent engagement with the Special Procedures more broadly. However, our mandates continue to receive information regarding legislation and policies that may affect the enjoyment of human rights by persons belonging to minorities.

According to the information received:

Demographical background

The population of Latvia is historically diverse. Ethnic minorities already represented approximately one quarter of its population in the pre-war period. During the Soviet period, this diversity further increased due to immigration from the rest of the Soviet Union, particularly from what is today Russia, but also from other Soviet republics. Following independence, and although around 200,000 people are said to have left the new State in the early years, around 500,000 others who had arrived or whose relatives had arrived post-1944 stayed in Latvia.

According to 2017 data of the Central Statistical Bureau of Latvia,¹ Latvian is the mother tongue of 60.8 % of the national population today. Although there has been a slight increase in the number of Latvian citizens whose mother tongue is Latvian since the time of the last census in 2000 (from 58.2% to 60.8%), Russian is still widely spoken in the country. According to the same 2017 national survey, Russian was the mother tongue of 36.0 % of the overall Latvian population.² In certain cities and regions, most notably in Riga and Latgale, Russian was a more common mother tongue than Latvian (for 53.5% and 55.5% of their populations respectively).

It is also reported that people do not necessarily speak their mother tongue at home. According to 2017 figures, almost 38% of the Latvian population speak Russian at home. Among people aged 50 and above, this proportion rises to 45%. In addition, people whose ancestry can be traced to other regions of the Soviet Union, or the Russian Empire before that, are said to be more likely on average to not speak Latvian at home. For instance, the Jewish minority was reportedly already composed of a proportionally high number of Russian-speakers by the 1897 census, and this trend appears to have continued to the present day.

National identity and growing Latvian proficiency requirements

In 1999, the authorities adopted the State Language Law, which states, in its article 3, that "In Latvia, the state language shall be the Latvian language" and, in its article 5, "that any other language used in the Republic of Latvia, except the Liv language, shall be regarded as a foreign language".³

Although the Latvian Constitution defined citizenship in a non-ethnic manner, it has been noted that other legislation and policies often seem to include an ethnic component, or at least favour ethnic or mother-tongue Latvians.⁴ As a result, a significant proportion of the Latvian population, more than 200,000 people mainly from the Russian-speaking minority, are considered non-citizens in Latvia, and stateless since they hold no citizenship. Persons seeking to indicate ethnic affiliation in their personal identity documents are reportedly required, by law, to provide documents which confirm kinship with a direct ascendant confirming their ethnicity. Furthermore, a person wishing to change his/her ethnicity record to "Latvian" is obliged to prove "the highest (third) level of fluency in the official language". The establishment of such a complicated procedure to change one's ethnicity record, most notably to Latvian, has been described as an exclusion mechanism by the Council of Europe.

Fluency in Latvian is far from limited to ethnicity records however, as increasingly strict Latvian language proficiency requirements are reportedly applied to virtually all professions and positions included in the official

¹ The Central Statistical Bureau - <https://www.csb.gov.lv/en/statistics/statistics-by-theme/population/search-in-theme/2747-latvian-mother-tongue-608-population-latvia>

² The 2017 survey does not provide detailed information on the remaining 3.2% of the population. However, Lithuanian, Polish, and Ukrainian are said to be the next most widely spoken languages in Latvia.

³ Official Language Law (1999)

⁴ Citizenship and Multiculturalism in Latvia: Public and Political Discourses A European Approach to Multicultural Citizenship: Legal, Political and Education Challenges EMILIE Contract No. CIT5-CT-2005-028205 Work Package 2: D3 Report

national classification of professions. This strict application of linguistic requirements is said to adversely affect the possibilities for non-native Latvian speakers and/or persons belonging to national minorities of accessing many positions within the public service in particular, and have also been described as impediments to civic participation and freedom of association more broadly. In recent years, it has been alleged that language proficiency requirements have reportedly been used to terminate the mandates of certain elected municipal council members. Moreover, since February 2017, members of ruling boards of NGOs are required to be proficient in the Latvian language at C1 level. Teachers can also allegedly be fined or even fired if their Latvian language skills are considered insufficient, even if said teacher teaches minority or foreign languages, or subjects taught in a minority language.

Education reforms

The proportion of children studying national minority programmes in Latvia had reportedly remained stable between around 2008 and 2018, at over 25% of the total number of children.

However, in 2018, a series of amendments to education laws and related regulations were adopted in Latvia, and slowly came into force between 2019 and 2021. These legislative changes are reportedly expected to lead to a sharp reduction in the use of languages of national minorities across all levels of the educational system in the country – from pre-schools to tertiary education. They also specifically restricted high schools and universities from teaching courses in languages other than Latvian, apart for certain limited ethnocultural subjects and in English.⁵

In 2019, the Constitutional Court affirmed the new minority language use restrictions for both public and private schools, deeming them constitutional. Later, on 11 June 2020, the Constitutional Court found some restrictions on tertiary education to be unconstitutional, based on the right to education and academic freedoms. However, they were left in force until May 2021 in order to give the Parliament the time to elaborate new regulations.

In 2019, in response to the Constitutional Court's rulings deeming the amendments related to schools constitutional, at least 1500 people participated in a peaceful protest in Riga. While the majority of the numerous education reform-related protests that are said to have taken place in Latvia since 2018 appear to have been peaceful, criminal proceedings were opened against several activists and protesters, ostensibly because they had made public statements calling “for mass disturbances and inciting national and ethnic hatred”, and generally “threatening public safety”.⁶ According to the information received this particular criminal case was terminated in 2020, due to the absence of any criminal activity. However, the case appears to have been reopened later in the year, although evidence or charges in relation to this case seem unclear. In addition, activists and groups who participated in or supported some of these peaceful protests against the education amendments, have been smeared and strongly criticised in the Latvian State Security Service

⁵ Several of these legislative amendments, or the initial draft versions of these future laws, were the subject of the past communications issued by the United Procedures referenced above (OL LVA 1/2019, OL LVA 1/2018, and OL LVA 3/2018).

⁶ Latvian State Security Service - Annual Report for 2018.

annual reports.

Further amendments to education laws in May 2020

It seems that several further reforms to the education system in Latvia were made in 2020. On 14 May 2020 the Parliament reportedly adopted amendments to the General Education Law that stipulated that all municipal kindergartens “(have) a duty to ensure an opportunity to pre-school education programmes” in Latvian, starting from 2021. On 2 July 2020, the Parliament adopted another Law on international schools, which allegedly stipulated that they could only function in official languages of EU and NATO member states.

Several Latvian political parties have also put forward policies or support for policies that may further entrench Latvian in the educational system

In the context of the COVID-19 pandemic and related social distancing restrictions, the Government reportedly broadcast some televised school education content nation-wide. It has been alleged that the content provided by the Government was only made available in Latvian, with the exception of language courses. It seems that similar remote learning courses may be being provided in 2021, despite concerns raised by many Latvian parents about those of the previous year.

Growing media restrictions

According to the information received, the media environment in Latvia has been characterised by a multitude of outlets, including many publishers and broadcasters in languages spoken by national minorities, in particular Russian. Several Latvian newspapers, including some of the most widely circulated in Latvia, are also published in Russian. There also appeared to be a State-owned television news service in Russian.

On 11 June 2020, the Latvian parliament adopted amendments to the Electronic Mass Media Law that will reportedly come into effect on 1 July 2021.⁷ According to the amendments, television programme distribution service providers must ensure that at least 80% of additional programmes included in the basic television package contain content whose original version is an official language of the EU or the European Economic Area.

In this regard, the amendments also include various criteria, often state security-related, that the NEMMC should consider when examining information about the beneficial owner of public electronic mass media. These include, whether the beneficial owner poses a threat to state security or public order, and whether the owner is member of an anti-governmental or criminal organisation.⁸ Based on the information at the NEMMC’s disposal and information about the beneficial owner provided by competent authorities, the NEMMC may revoke or ban the broadcasting, retransmission permit, or distribution of certain services. In addition, electronic mass media programmes

⁷ <http://titania.saeima.lv/LIVS13/saeimalivs13.nsf/webSasaiste?OpenView&restricttocategory=559/Lp13>

⁸ In addition, the NEMMC will have to assess whether the beneficial owner is subject to international or national sanctions and whether they have been convicted of crimes against humanity, crimes against peace, war crimes, genocide, terrorism-related crimes, or crimes against the state.

and broadcasts may not contain appeals that pose threats to state security, public order or safety or that publicly glorify, justify, or solicit terrorism. These terms do not seem to be defined in a clear manner in the amended law. Likewise, content that poses a threat or serious risk to public health is also prohibited by this new legislation.

On 6 August 2020, it has been alleged that the Social Integration Foundation deprived two Russian-language media outlets, including what has been described as the only surviving Russian-language daily newspaper in the EU, of financial support. It seems that these outlets were accused of spreading misinformation on their platforms, and that this ban was partially justified with a reference to classified information from the security services.

In June 2020, Latvia took a Russian broadcaster off the air, calling its channels “propaganda” and citing its ties to a Kremlin-linked media mogul.

Later, on 29 November 2020, the NEMMC announced plans to switch the content of the only state-owned multilingual channel referenced above to the Latvian language only, although some content will reportedly still be available in minority languages on its online platform.

On 3 December 2020, seven journalists, contributors to Baltnews and Sputnik Latvija news portals, were detained by Latvian State Security Service, had their apartments searched and computers, mobile phones, electronic media and bank cards confiscated. Following lengthy interrogation, the journalists were charged under Article 84 of the Latvian Criminal Code, for allegedly violating EU sanctions in connection with Ukraine. The journalists have been freed on conditional release with travel restrictions, pending trial, and are facing up to four years in prison. These charges are alleged to be tied to the “Rossiya Segodnya” agency, whose head is currently under EU sanctions as a private individual.

On 8 February 2021, the NEMMC banned the retransmission and distribution of the said Russian news agency in the territory of Latvia for a full year. This channel had previously been suspended in 2014 for three months, then again in 2016 for six months, and once again in 2019 for another three months.

Pre-election campaigning law

A Bill No. 780/Lp1 is currently being discussed in the Latvian parliament. The amended language states that the “The pre-election campaigning, (...) shall be made in the official language only.”

Although the bill has not been adopted yet, there have been two plenary parliamentary votes on the bill. On September 3, 2020, the parliament voted (47 yeas, 43 nays) to send the bill to the commissions for consideration. On 3 December 2020, the parliament adopted the bill in the first reading (with 40 yeas, 34 nays and 3 abstentions). The date of the second reading in the parliament's plenary has not yet been determined, at the time of the sending of this communication. On 10 March 2021, the parliamentary Commission on Human Rights and Public Affairs reportedly established a Working Group on this particular bill.

If passed, this law could seriously affect the political participation of the many members of the Latvian population whose mother tongue is not Latvian, as well as the rights and activities of certain media organisations and political parties. This proposed amendment has been put forward and advanced, despite a letter sent by the OSCE High Commissioner on National Minorities, received in September 2020, which was reportedly critical of it. In addition, earlier recommendations were made to the Latvia Government to not restrict the use of minority languages specifically in the electoral context, by the European Commission against Racism and Intolerance⁹ and by an OSCE/ODIHR report,¹⁰ among others.

Without prejudging the accuracy of the information received, we are deeply concerned that the above allegations illustrate a pattern of growing and systematic restrictions on the linguistic rights of minorities in Latvia, and by extension on the enjoyment of the rights to freedom of expression and peaceful assembly, the prohibition of discrimination, and the rights of persons of linguistic minorities to use their own language, through the imposition of a national policy of monolingualism on what has historically been a linguistically and culturally diverse society. We respectfully recall that the International Covenant on Civil and Political Rights (ICCPR), acceded to by Latvia on 14 April 1992, in its article 26 indicates that: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such...language”, and its article 27 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 (...) or to use their own language”.

While growing legislative and other restrictions to linguistic minority rights are concerning in and of themselves, given the prevalence of Russian in Latvia in particular, the array of recent policies that appear to be aimed at limiting and potentially decreasing its use in the country are of particular concern. Recalling that Russian is the mother-tongue of just under 40% of the country’s overall population, and higher in some regions, we are concerned that the above policies may particularly affect Russian-speakers in a discriminatory way, most notably in the spheres of education, political participation, and in terms of receiving and imparting information more broadly. In this regard we are also concerned by reports that remote-learning education programmes and other COVID-19 related Government information were initially only provided in Latvian, which potentially increased the risks posed by the pandemic for some members of minority linguistic groups in particular. We recall that older persons are more vulnerable to the effects of this virus and that older persons in Latvia are reportedly more likely on average to not speak Latvian at home.

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 further 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

⁹ CRI (2012)3 <https://rm.coe.int/fourth-report-on-latvia/16808b58b6> (EN), para. 99

¹⁰ https://www.osce.org/files/Latvia%202018%20parliamentary_final%20report_17.01.2019.pdf (EN), para. XV.10

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 information about how the Electronic mass media law and the Pre-election campaigning law, among other developments referred to above, will not restrict the right to freedom of expression, political participation, and other fundamental rights of linguistic minorities in Latvia in a discriminatory way. Please also provide information on the consultation process and other measures undertaken to ensure wide and inclusive participation, and especially the equal and effective protection against discrimination of all relevant stakeholders, including representatives from minorities and their organizations, in the formulation of these laws and policies.
3. Please provide further information on how the education law reforms referred to above comply with Latvia's obligations under international human rights law. In particular, please provide information about how the new 2020 education regulations, that reportedly enforce Latvian in kindergartens and only permit the teaching of EU or NATO languages in international schools, will not discriminate against minority linguistic groups in the country, and especially their right to education in their own languages. Please provide disaggregated data on the number of children, classes and schools that have been, or are expected to be, affected by these new regulations.
4. Please also provide information on the measures your Excellency's Government is putting in place to ensure that all of its digital learning platforms take into account the learning needs of linguistic minorities, and especially to equal and effective protection against discrimination.
5. Please provide information, if and where possible, about the criminal cases opened against protesters, journalists, and media organisations detailed above, and about how they were consistent with international human rights law, in particular articles 19, 21, 22, 26, and 27 of the ICCPR.
6. Please provide information regarding the charges imposed on the journalists, for violation of Article 84 of the Latvian Criminal Code mentioned above, and how these relate to the implementation of the EU sanctions.
7. Please elaborate on how your Excellency's Government implements sanctions imposed on private individuals and complies with international fair trial and due process standards. Please provide information about measures taken by your Excellency's Government to protect and promote the right of persons belonging to linguistic minorities to use their own language, since January 2020, as well as the equal and effective protection against discrimination on the ground of language, amongst others.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all the inspections and reviews of licenses be suspended and that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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

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enjoyment of human rights

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 like to emphasize that the above rights of linguistic minorities are international human rights. Their effective implementation is elaborated in the 2017 UN publication "Language Rights of Linguistic Minorities: A Practical Guide for Implementation" which elaborates on many of the issues raised here, including in education that: "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)." This practical guide outlines the human rights of linguistic minorities in areas such as political participation, public health services, and others.

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.

In regard to the alleged criminal proceedings against some journalists and media organisations, while we are not privy to the full facts of these criminal cases,

we respectfully recall that a free, uncensored, and unhindered press constitutes one of the cornerstones of a democratic society (CCPR/C/GC/34 para.13), and that journalism constitutes an essential service for any society, as it provides individuals and society as a whole with the necessary information to allow them to develop their own thoughts and to freely draw their own conclusions and opinions (A/HRC/20/17 para 3). Similarly, in relation to the criminal proceedings initiated, closed, and then re-opened against what have described as peaceful protesters and activists, we warn that any undue or arbitrary restrictions on the right to peaceful assembly or the legitimate activities of human rights defenders would be in contradiction with the States' responsibility to protect peaceful protesters and to facilitate the exercise of the right to freedom of peaceful assembly more broadly.

We further note that the 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."

We note that article 2(2) of the Covenant on Economic, Social and Cultural Rights (acceded to by your Excellency's Government on 14 April 1992) calls on States parties to "...guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Along these lines, article 13 of the Covenant recognizes the right of everyone to an education which shall enable "all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups".

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 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).