

Mandates of the Special Rapporteur on minority issues; the Special Rapporteur in the field of cultural rights and the Special Rapporteur on the right to education

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(Please use this reference in your reply)

28 September 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues; Special Rapporteur in the field of cultural rights and Special Rapporteur on the right to education, pursuant to Human Rights Council resolutions 43/8, 46/9 and 44/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **a bill severely limiting education in minority languages of Latvia through the requirement that all pre-school and school institutions, including those operating in minority-language or bilingual institutions, transition to Latvian-language instruction. Those amendments, in addition, were developed without effective and meaningful participation of the affected minorities.**

According to the information received:

The Latvian Ministry of Education and Science has developed a bill amending legislation on the education system of the country aiming at transitioning education in preschool institutions, as well as in the 1st, 4th and 7th grades of school to instruction fully in Latvian language as of September 2023. At the same time, the remaining school grades will have to transition to instruction in Latvian language by September 2025.

As of 2018, in Latvia there were 104 educational institutions providing primary education in a minority language (including bilingually), notably educational institutions implementing educational programs in Russian, Polish, Ukrainian, Belarussian, Hebrew, Lithuanian and Estonian. These educational institutions will be directly affected by the new bill.

On 8 April 2022, the bill was first published for public discussion by the Ministry of Education on the governmental website. It was open for discussion until 22 April 2022. From 23 April to 17 May 2022, the authorities collected the feedback from ministries and public organizations. On 7 June 2022, the bill was included in the agenda of the Government meeting as an extraordinary item and was approved. On 8 June, the bill was sent by the Government to the Parliament. On 16 June, it was approved by the Parliament in the first reading. It is reported that the bill is set to be approved in the second reading in September.

It is further reported that during the public discussion of the bill, from 8 to 22 April 2022, about 4,000 individuals and legal entities submitted comments and feedback, with over 95% of them opposing the bill. Two legal entities and circa one thousand individuals supported the call to withdraw the bill from consideration until adoption of the ruling on related complaints pending before

the European Court of Human Rights (Case No. 56928/19) and the UN Human Rights Committee (Case No. 4120/2022). Despite these calls, the bill was submitted for the consideration of the Parliament without major changes.

We express serious concern about the bill which, if adopted, would severely limit education in minority languages in Latvia, in contradiction with, *inter alia*, art. 29.1(c) and art. 30 of the Convention on the Rights of the Child.

We express further concern that the process leading to the promotion of the bill in Parliament would not have provided for the effective and meaningful participation of the affected minorities, by not taking into consideration the fact that over 95% of those participating opposed the bill.

In connection with the information mentioned above, we would like to remind your Excellency's Government of its legal obligations under international law applicable to the issues brought forth.

We firstly recall that the Universal Declaration of Human Rights recognizes in article 1 that "all human beings are born free and equal in dignity and rights". Understood within the context of minority rights, this means that States should refrain from practices which discriminate against minority groups on their territory.¹

We would like to draw the attention of your Excellency's Government to the Convention on the Rights of the Child acceded to by Latvia on 14 April 1992. Article 30 of the Convention stipulates that a child belonging to the minority group shall not be denied the right with members of his or her group to enjoy his or her culture, to practise his or her religion or to use his or her own language. Additionally, under Article 29 (1) (c) of the Convention, every state party is obliged to provide 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.

We would like to recall your Excellency's Government's obligation under International Covenant on Civil and Political Rights, ratified by Latvia on 14 April 1992. Article 27 of the Covenant provides that ethnic, religious or linguistic minorities shall not be denied their 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.

We would like to refer to your Excellency's Government's obligation under International Covenant on Economic, Social and Cultural Rights acceded to by Latvia on 14 April 1992. Article 13 of the Covenant recognizes the right of everyone to education. It further provides that education shall be directed to the full development of the human personality and the sense of its dignity and should promote understanding, tolerance, and friendship among all racial, ethnic or religious groups. Article 13(2), as clarified by the Committee on Economic, Social and Cultural Rights, provides an obligation of States Parties to take positive measures to ensure that education is culturally appropriate for minorities and indigenous peoples.² Article 13(3) provides that States Parties have an obligation to respect the liberty of parents

¹ E/CN.4/Sub.2/AC.5/2005/2, para 4

² E/C.12/1999/10, para. 50

and legal guardians to choose to send their children to private schools to ensure the religious and moral education of their children in conformity with their own convictions.

In her report to the Human Rights Council on the cultural dimension of the right to education, the Special Rapporteur on the right to education recalled that States and other actors must recognize that cultural diversity is a fundamental characteristic of contemporary societies that must be both reflected and made the most of at all levels of the education system, formal or not (A/HRC/47/32, para.22). She further underlined the right of learners to a culturally appropriate and relevant education (para. 79 a).

Article 15 of International Covenant on Economic, Social and Cultural Rights, recognizes the right of everyone to take part in cultural life, which includes inter alia the right to access and enjoy cultural heritage, to conduct cultural practices, to maintain and to transmit cultural resources and ways of life, including languages. The Committee on Economic, Social and Cultural Rights has explained that States' obligations to respect and protect freedoms, cultural heritage and diversity are interconnected. In the Committee on Economic, Social and Cultural Rights' view, article 15, paragraph 1 (a) of the Covenant also includes the right of minorities and of persons belonging to minorities to take part in the cultural life of society, and also to conserve, promote and develop their own culture. This right entails the obligation of States parties to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves. Consequently, minorities have the right to their cultural diversity, traditions, customs, religion, forms of education, languages, communication media (press, radio, television, Internet) and other manifestations of their cultural identity and membership (General Comment 21, para. 32). Furthermore, "States parties should adopt measures and spare no effort to ensure that educational programmes for minorities and indigenous groups are conducted on or in their own language, taking into consideration the wishes expressed by communities and in the international human rights standards in this area" (para 27).

In her report on intentional destruction of cultural heritage as a violation of human rights, the Special Rapporteur in the field of cultural rights recommended that States respect and protect tangible and intangible cultural heritage, and that they take appropriate legislative, administrative, educational and technical measures to prevent, avert, stop and suppress intentional destruction of heritage. She also recommended that States tackle, in accordance with international standards, extremist and fundamentalist ideologies, sectarianism and discriminatory attitudes towards, inter alia, those with different views, minorities, indigenous peoples and women, which often lead to cultural cleansing in the form of cultural heritage destruction (A/71/317, para. 78 a), c) and p)).

In addition, we would like to refer your Excellency's Government to Article 5 of the International Convention on the Elimination of all forms of Racial Discrimination, acceded to by Latvia in 1992. Article 5 obligates States Parties to undertake to prohibit and eliminate racial discrimination and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, equality before the law in the enjoyment of civil, political, and economic, social, and cultural rights, notably (v) the right to education; and (vi) the right to equal participation in cultural activities. As per Article 1 of the Convention, racial discrimination is understood 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 or cultural or any other field of public life.

We would further like to refer your Excellency's Government to its obligations under Article 5 of the UNESCO Convention against Discrimination in Education, accepted by Latvia in 2009. Article 5(1)(a) provides 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 racial or religious groups. Article 5(1)(c) provides that it is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and the use of teaching of their own language. Article 5(2) provides that States Parties to the Convention are to take all necessary measures to ensure the application of the principles enunciated in paragraph 1 of the Article.

We further recall UNESCO's 1995 Declaration of Principles on Tolerance. In particular, Article 4.2 of the 1995 UNESCO Declaration states that "[e]ducation policies and programmes should contribute to development of understanding, solidarity and tolerance among individuals as well as among ethnic, social, cultural, religious and linguistic groups and nations".

We also remind your Excellency's Government of UNESCO'S Universal Declaration on Cultural Diversity, which emphasizes the importance of respecting the human rights of minorities as a central component of overall "respect for human dignity" (art. 4). Significantly, the protection of linguistic diversity "at all levels of education" was recognized, in the annex of the Universal Declaration on Cultural Diversity, as a main avenue of implementation of these principles. According to article 5 of the Declaration, all persons are entitled to quality education and training that fully respect their cultural identity.

We would like to remind your Excellency's Government of the international standards stemming from the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (hereinafter, "the Declaration"), adopted by consensus by the UN General Assembly on 18 December 1992 (A/RES/47/135). Article 2.1 of the Declaration recognizes the right of persons belonging to a minority to "to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination". Moreover, we call your Excellency's government attention to specific State duties with regards to minorities, as set out in Articles 1, 4.3 and 4.4 of the Declaration. Article 1 calls on States to adopt measures, both legislative and otherwise, to protect the existence and promote the identity of persons belonging to "national or ethnic, cultural, religious and linguistic minorities". Pertaining more specifically to the linguistic rights of minorities, Article 4.3 of the Declaration calls on States to "take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue". In addition, Article 4.4 calls on States to use education as a means of increasing exchanges of knowledge on "history, traditions, language and culture" between minorities and broader national society.

We would further like to call your Excellency's Government attention to the Working Group on Minorities' commentary on the application of the Declaration (E/CN.4/Sub.2/AC.5/2005/2). In its interpretation of the duties stemming from Article 4.3 of the Declaration, the Working Group found that, in cases when a minority language is territorial in nature and is spoken by a large number of persons in a region of a country, "States should to the maximum of their available resources ensure that linguistic identity can be preserved". Ideally, this would be done by providing pre-school and primary education in a linguistic minority's mother tongue, and progressively introducing State languages in later years of schooling (E/CN.4/Sub.2/AC.5/2005/2, para 61).

We further draw attention to the 2020 thematic report to the UN Human Rights Council on "Education, language and the human rights of minorities" of Dr Fernand de Varennes, United Nations Special Rapporteur on minority issues, which concluded that "inclusive and quality education for members of linguistic minorities means, as far as is practicable, education in their own language" (A/HRC/43/47, para 48) and that it may be discriminatory to reduce or prohibit teaching in a minority language where this can be considered unreasonable or unjustified and therefore a breach of international human rights obligations (A/HRC/43/47, par. 45).

We also direct your Excellency's Government to the recommendations found in the 2013 Guidance Note of the Secretary-General on Racial Discrimination and Protection of Minorities. In particular, we bring attention to recommendation 13, which calls on States to support the protection of minority languages and identities, as well as recommendation 18, which encourages pluralism and diversity in education, as well as mother-tongue and/or bilingual education for minorities.

In addition, we bring attention to Language Rights of Linguistic Minorities: A Practical Guide for Implementation, a handbook developed in by the UN Special Rapporteur on minority issues in 2017. This handbook provides practical advice for States to meet their international obligations towards linguistic minority groups. As part of its recommendations on the provision of public education, the handbook states that "[w]here 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".

We further draw attention to the recommendations and best practices stemming from the outcome documents of the annual UN Forum on Minority Issues. In particular, we highlight the recommendations in the Report of the Special Rapporteur on minority issues on the twelfth session of the Forum, titled "Education, language and the human rights of minorities" (A/HRC/43/62). The Report calls on States to pursue the goal of linguistic equality through the provision of "education in, and the teaching of, minority languages" (A/HRC/43/62, para 19). The recommendations urge States to safeguard mother tongue education for linguistic minorities "at all levels where practicable" and, significantly, to interpret the practicality of inclusive, multilingual linguistic educational policies "as favourably as possible for the use of the mother tongue as the medium of instruction" (A/HRC/43/62, paras 31-32).

Further, we recall the Human Rights Committee's concluding observations on the third periodic report of Latvia, published in 2014, in which it is recommended that

Latvia “intensify measures to prevent the negative effects on minorities of the transition to Latvian as the language of instruction [...] [and] take further steps in support of the teaching of minority languages and cultures in minority schools” (CCPR/C/LVA/CO/3, p.8).

Based on the above, we recommend review and reconsideration of the bill aiming at transitioning all pre-schools and schools, including minority-language and bilingual institutions, to instruction in Latvian language, so as to ensure compliance with Latvia’s international human rights obligations.

As it is our responsibility, under the mandates provided to us by the UN Human Rights Council, to seek to clarify all the situations brought to our attention, we would be grateful for your comments on the following matters:

1. Please provide any additional information or comments in relation to the above-presented analysis.
2. Please provide clarifications on how the reported developments, if confirmed, are compatible with your Excellency’s Government’s obligations under the provisions cited above and the steps Your Excellency’s Government plans to undertake to remediate the inconsistencies with the international human rights standards.
3. In particular, please indicate whether and to what extent minority children in Latvia at the different levels of education would continue to be taught in their own languages, the number of hours per week they will be instructed in their own languages, as well as the number of hours per week of instruction in Latvian. The number of schools and children affected should also be identified. Please provide data for the last 5 years.
4. Please provide clarifications on how many schools with instruction in minority language(s) – private and state funded – have been operational in Latvia and how did their number change over the period of the past 10 years, and how are these numbers projected to change within the next 5 years.
5. Please provide clarifications on what were the effective and meaningful participation processes involving linguistic minorities of Latvia which preceded, accompanied and followed the above reported legislative amendments and actions of Your Excellency’s Government.
6. Please provide clarifications on how the views and opinions expressed by the members of linguistic minorities of Latvia during the public consultation and discussion process on the described legislative amendments were factored into the final text of the bill in order to be qualified as effective and meaningful participation.

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 after 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.

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