

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

Ref.: AL EST 1/2023
(Please use this reference in your reply)

19 July 2023

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 52/5, 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 **legislative amendments severely limiting education in minority languages in Estonia through the mandatory transition of all pre-school and school institutions, including those operating in a minority language or bilingual institutions, to Estonian-language instruction.**

According to the information received:

On 12 December 2022, the Parliament of Estonia adopted the Act on Amendments to the Basic School and Gymnasium Act and Other Acts (Transition to Estonian-Language Education). This Act appears to introduce retrogressive provisions limiting the rights of ethnic and linguistic minorities in education.

Article 21 of the former version of the Act, for instance, provided that in public schools the language of instruction was Estonian while local or central public authorities could decide on another language of instruction in schools under their jurisdiction. However, article 21 of the amended Act provides that the language of instruction in schools shall be exclusively Estonian. The amended article 21 states that for children whose native or home language is not Estonian, the school shall organize "language and cultural studies" if at least ten children with the same native or home language wish to do so. It means that instruction in a minority language as a language of instruction, as provided by the old version of the law, will be replaced by "language and cultural studies" and this would only be undertaken under certain conditions, such as the minimum number of students and upon their request.

It is further reported that following the amended law, as from 1 September 2024, students from 5 to 9 grades studying in a minority-language school will be able to conclude their studies in the minority language. However, students enrolled in minority-language kindergartens and from 1 to 4 grades will transition to Estonian language as their only language of instruction.

It is important to highlight that ahead of the adoption of the new Act, minority-language schools have been already affected by restrictive measures by local authorities, particularly in the case of the Russian linguistic minority group. In the past years, a number of schools with Russian as the language of instruction

have been shut down, despite the protest by the Russian-speaking parents and children. For instance, in 2017, when Kallaste, the town with a high number of Russian speakers, was merged with Estonian speaking districts (volosts), Russian-language schools were shut down.

In the city of Keila, the only Russian-language primary school was closed in 2019, despite the sufficient number of students to maintain it open. At the meeting of the city assembly, when the decision of shutting down the school was made, the mayor of Keila explicitly declared that the purpose of closing the Russian-language school was to foster “a unified Estonian community” in the city.

In the same year, in 2019, in the predominantly Russian-speaking city of Kohtla-Järve, three Russian-language gymnasiums were closed, followed by the opening of a state gymnasium with teaching in Estonian. As a result, Russian-speaking gymnasium students have less options to undertake education in Russian language.

In 2021, the city of Kiviõli in the North-East of Estonia (Ida-Virumaa County), with predominantly Russian-language population, was merged with the surrounding Estonian-language villages. As a result of this merger, the population of Estonian speakers, who became the majority group in the municipality and in the governing body of the municipality, decided to shut down the only Russian-language school there, which caused a protest among teachers and parents.

We express serious concern about the adopted legislative amendments, which appear to limit severely education in minority languages in Estonia by eliminating the option of instruction in minority languages at pre-schools and schools as of 1 September 2024, in contradiction with, *inter alia*, article 26 and article 27 of the International Covenant on Civil and Political Rights, as well as article 29.1(c) and article 30 of the Convention on the Rights of the Child. According to these legal provisions, minorities shall be provided adequate opportunities to learn their mother tongue and to have instruction in pre-schools and schools in their mother tongue, or to be treated in a non-discriminatory manner on the ground of language in terms of access to education in their mother tongue. Therefore, the legislative amendments effectively eliminating instruction in minority languages in pre-schools and schools by introducing Estonian-only language of instruction contradict these international human rights standards. The shutting down of minority-language schools replaced by Estonian language schools may also result in forced assimilation, including linguistic assimilation, which is prohibited under international human rights law. The new law affects the human rights of some 25-30% of the population, who are of Russian ethnic origin or Russian speakers, combining citizens and residents.

We express further concern that, at least in several cases mentioned above, the views of the Russian-language minority on school reorganization were not taken into consideration, and this practice appears to violate the state obligation of ensuring effective and meaningful participation of minorities in decisions affecting them.

In connection with the information mentioned above, 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 UN Human Rights Council, to seek to clarify all cases and 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 and the concerns that Russian-speaking and other minorities will face forced assimilation pressures due to the violations of their human rights in the field of education in their mother tongue.
2. Please provide clarifications on how the reported developments 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 Estonia at the different levels of education would continue to be taught in their own languages in 2024-2030, the number of hours per week they will be instructed in their own languages, the minority languages involved, as well as the number of hours per week of instruction in Estonian language. Please provide data for the last 5 years (2018-2023) and your projections for the next 7 years (2024-2030).
4. Please provide clarifications on how many schools with instruction in minority languages – private and public ones – have been operational in Estonia and how did their number change over the period of the past 5 years, and how are these numbers projected to change within the next 7 years. Please indicate how many of these operate for each minority language, and in particular the Russian language.
5. Please provide clarifications on what were the effective and meaningful participation processes involving linguistic minorities of Estonia which preceded, accompanied and followed the above reported legislative amendments and actions of Your Excellency's Government.
6. In particular, please provide clarifications on how the views and opinions expressed by the members of linguistic minorities of Estonia 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.

We would appreciate receiving a response within 60 days. Past 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 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.

We may publicly express our concerns in the near future through a press release. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Fernand de Varennes
Special Rapporteur on minority issues

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

Farida Shaheed
Special Rapporteur on the right to education

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, 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 Estonia on 21 October 1991. 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 practice 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, acceded to by Estonia on 21 October 1991. Article 26 of the Covenant prohibits discrimination on the ground of language, including in the field of education in a child’s mother tongue. Article 27 of the same Covenant also 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 practice 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 Estonia on 21 October 1991. 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 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.

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’

¹ E/CN.4/Sub.2/AC.5/2005/2, para 4

² E/C.12/1999/10, para. 50

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).

We would like to remind Your Excellency Government of the international standards derived from the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by consensus on December 18, 1992. Article 2.1 of the Declaration recognizes the right of persons belonging to a minority to "enjoy their own culture, profess and practice their own religion and use their own language, in private and in public, freely and without interference or any form of discrimination". In addition, we draw Your Excellency's government's attention to the specific duties of the State in relation to minorities as set forth in articles 1, 4.3 and 4.4 of the Declaration. In addition, article 1 calls upon States to adopt measures, legislative and otherwise, to protect the existence and promote the identity of persons belonging to "national or ethnic, cultural, religious and linguistic minorities". More specifically on the linguistic rights of minorities, article 4.3 of the Declaration calls on States to "take appropriate measures to ensure that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to receive instruction in their mother tongue". Furthermore, article 4.4 urges States to use education as a means of increasing exchanges of knowledge about "history, traditions, language and culture" between minorities and the national society at large.

We also draw attention to the 2020 thematic report to the UN Human Rights Council on "Education, language and human rights of minorities" by the UN Special Rapporteur on minority issues, Mr. Fernand de Varennes, who concluded that inclusive and quality education for members of linguistic minorities means, as far as possible, education in their own language" and that it may be discriminatory to reduce or prohibit education in a minority language where this may be considered unreasonable or unjustified and therefore a violation of international human rights obligations .

We also direct your Excellency's Government to the recommendations found in the Secretary-General's 2013 Guidance Note on Racial Discrimination and Protection of Minorities. In particular, we draw 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 your Excellency's Government's 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).