

The Implementation Of Language Rights In Latvia (2012)

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1. Implementation Mechanisms of the Convention for the Protection of Human Rights and Fundamental Freedoms (the ECHR) in Latvia

The legal system of Latvia follows the doctrine of monism, whereby acts of international law, if they have been made under a certain procedure, are recognized to be elements of the national legal system. Under this system, norms and principles of international law have priority over norms and principles of national law. According to Article 13 of the Law On International Agreements of the Republic of Latvia¹, provisions of an international agreement apply if the international agreement which has been approved by the Saeima (Parliament) prescribes provisions different from those prescribed by legislative acts of Latvia. Moreover, it can be argued that human rights norms have a special hierarchical position in Latvian law, and can be equated with the Constitution. Therefore, the Latvian Constitutional Court in case No.2000-03-01 ruled that the intent of the drafters of Chapter 8 of the constitution On Fundamental Human Rights has been to achieve a harmony between the Constitution and international human rights instruments. Therefore, in a case of conflict between national and international law, a norm of international law is to be applied.² In addition, in Latvia the ECHR is part of the domestic law and *de facto* has constitutional status.

Norms of international agreements, including the ECHR, that have been ratified according to the prescribed procedure, can be applied directly in judicial proceedings in the courts of Latvia. Several courts of Latvia, amongst them the Constitutional Court, have referred to and applied norms of international agreements, including the ECHR, which are binding upon Latvia.

2. General Provisions on The Right of Equal Access to the Existing Educational Facilities

The right to education is protected by the Latvian Constitution. The main laws concerning education are: the Education Law³, the Law On General Education⁴, the Law On Professional Education⁵, Law On Higher Educational Institutions⁶. Furthermore, there are several regulations adopted by the Cabinet of Ministers regulating issues of education.⁷

The Ministry of Education and Science is responsible for State policy and strategy in the area of education. In addition, the Ministry of Agriculture, the Ministry of Welfare, and the Ministry of Culture are involved in matters of education and may also establish educational institutions. Finally, local municipalities play an important role in the area of education. The compliance of educational institutions, with the laws related to education, are controlled by the State Education Inspection, an institution under the auspice of the Ministry of Education.

¹ Enacted by Parliament on 13 January, 1994, published in official journal "Latvijas Vēstnesis" on 26 January, 1994. Latvian version available <http://www.likumi.lv/doc.php?id=57840>

² Case No.2000-03-01 of 30 August 2000, the Constitutional Court. Available on the internet at: [http://www.satv.tiesa.gov.lv/LV/Spridumi/03-01\(00\).htm](http://www.satv.tiesa.gov.lv/LV/Spridumi/03-01(00).htm)

³ Enacted by Parliament on 29 October 1998, published in official journal "Latvijas Vēstnesis" on 17 November 1998. Latvian version available <http://www.izm.gov.lv/default.aspx?tabID=3&id=102>. English translation available at <http://www.ttc.lv/?id=59>

⁴ Enacted by Parliament on 10 June 1999, published in official journal "Latvijas Vēstnesis" on 30 June. Latvian version available <http://www.izm.gov.lv/default.aspx?tabID=3&id=912>

⁵ Enacted by Parliament on 10 June 1999, published in official journal "Latvijas Vēstnesis" on 30 June. Latvian version available <http://www.izm.gov.lv/default.aspx?tabID=3&id=913>

⁶ Enacted by Parliament on 2 November 1995, published in official journal "Latvijas Vēstnesis" on 17 November 1995. Latvian version available <http://www.izm.gov.lv/default.aspx?tabID=3&id=893>

⁷ Laws, regulations adopted of the Cabinet of Ministers, as well as other legal acts regulating education in Latvia are available in Latvian at the website of the Ministry of Education and Science: <http://www.izm.gov.lv/default.aspx?tabID=3>.

Article 112 of the Latvian Constitution provides that everyone has the right to education and that the State shall ensure that everyone may acquire basic and secondary education without charge.

Furthermore, it is also established that basic education is compulsory.

Article 3 of the Education Law stipulates that every citizen of the Republic of Latvia and every person who has the right to a non-citizen passport issued by the Republic of Latvia, every person who has received a permanent residence permit, as well as citizens from the European Union States who have been issued a temporary residence permit, and their children, have equal rights to acquire education. This right is regardless of their property or social status, race, nationality, gender, religious or political convictions, state of health, occupation or place of residence. Furthermore, according to the Education Law acquisition of basic education, or continuation of acquisition of basic education until the age of 18 is compulsory. No one can be expelled from a school during the process of acquisition of basic education, if another place to continue the acquisition of basic education is not ensured.

Local municipalities collect information on children that have reached age from which acquisition of compulsory education has to begin each year. As a result, information on children not attending school is collected. Local municipalities are trying to ensure that the number of children not attending school is reduced. Statistical data shows that in year 2002, 2512 children in the age group of 5 to 15 were not attending school. In comparison with the statistics for 2001, in year 2002 the number of children not attending the school has been reduced by 3.8%.⁸

3. Educational Programmes for Ethnic Minorities

Article 41(2) of the Education Law provides that the general curriculum of secondary education in each respective area can be combined with the curriculum of minority education, including the content of studies related to the native language of minorities, the identity and integration of minorities in the society of Latvia. Educational programmes for ethnic minorities are to be developed by educational institutions in accordance with the State educational standards on the basis of general educational programme models approved by the Ministry of Education and Science. The Ministry of Education and Science determines which subjects from within the frame of the curricula of minority education are to be taught in the state language. Therefore, curricula of minority education provides an opportunity for representatives of minorities to learn the Latvian language and culture whilst keeping a sense of their own national identity.⁹

Currently, there are more than 200 minority schools in Latvia. Among them - Russian schools, Polish schools, Jewish schools, one Ukrainian school, one Estonian school, one Lithuanian school and one Byelorussian school, as well as classes of Roma in several schools.¹⁰

4. Language of Acquisition of Education

The reform of state-funded schools has declared its goal of ensuring competence in the state language of minority students, while providing for the minority identity and language through minority education programmes.¹¹ Although the reform had been legislated in 1998 and was to be implemented

⁸ Latvijas Republikas kārtējais ziņojums par 1989.gada Bērna tiesību konvencijas izpildi Latvijas Republikā laika posmā no 2001.gada līdz 2004.gada 1.martam, 352.paragrāfs, <http://www.mkparstavis.am.gov.lv/lv/?id=128&parent=20>

⁹ Periodic report of the Republic of Latvia on the implementation of the 1966 International covenant on civil and political rights in the Republic of Latvia during the period from 1995 till 2002, para.339, <http://www.mkparstavis.am.gov.lv/en/?id=58>

¹⁰ Latvijas Republikas nacionālais ziņojums par 1966.gada 16.decembra Starptautiskā pakta par ekonomiskajām, sociālajām un kultūras tiesībām izpildi Latvijas Republikā līdz 2002.gada 1.janvārim., 573.paragrāfs, <http://www.mkparstavis.am.gov.lv/lv/?id=21&parent=20>

¹¹ Nils Muiznieks, "Minority Education in Latvia: From Segregation to Integration", <http://www.integracija.gov.lv/index.php?id=462&sadala=21>; Nils Muiznieks, "Minority Education in Latvia: From Segregation to Integration" <http://www.integracija.gov.lv/?id=465&sadala=25>. See also Svetlana Djackova, "Minority education: the standpoint of the reform opponents needs to be analyzed", <http://www.policy.lv/index.php?id=102367&lang=en>

in September of 2004, in the beginning of 2003, the Ministry of Education and Science were still grappling with issues of how to formulate the specific content of the transition of Russian-language secondary schools to schools realising a minority education programme, what the ratio of state and minority language of instruction in secondary schools should be, and which classes should be taught in which language. The minority groups expressed concern over the lack of preparedness of schools for the transition to a larger share of state language and the possible decrease in the quality of schooling.¹²

On 19 September 2002 Jelena Grisankova and Oleg Grisankov submitted an application to the European Court of Human Rights alleging that Latvia had violated Article 2 of Protocol No.1 of the ECHR. The second applicant argued that, from 2004, he would be obliged to pursue his secondary education in Latvian rather than in Russian, his mother tongue and the language to which he had been accustomed to since his first year of schooling. He claimed that, were he to study in Latvian, he could never achieve a sufficient degree of understanding to be able to learn as successfully and as productively as if he were studying in his mother tongue. Consequently, there was likely to be a general decline in the standard of education of Russian-speaking children, which ought to be interpreted as a genuine “refusal of the right to education”. The second applicant also complained of the application of section 50(3) of the Education Act, which prohibited persons who did not have an advanced knowledge of Latvian from being employed as state school teachers. In his opinion, this provision was likely to result in the unemployment of numerous teachers and therefore, once again, in a general decline in the level of instruction.

The first applicant claimed that the Latvian legislator, by obliging her son to pursue his secondary education in a language other than his own, had failed in its obligation to honour her right as a parent “to ensure such education and teaching in conformity with [her] religious and philosophical convictions” (Article 2 of Protocol No. 1 to the Convention). The applicants also argued that the legislation in dispute created a situation of inequality between those belonging to the Russian-speaking minority and other minority groups in Latvia. Whilst the second group would maintain the right to be educated in their own language, those of the Russian-speaking minority would be deprived of this right.

Unfortunately, the European Court of Human Rights did not have a possibility to rule on those issues and so the application was found to be inadmissible due to the failure to exhaust local remedies.¹³

Notwithstanding the controversies surrounding this issue, on 5 February 2004 the Parliament approved the amendments to the Education Law, which legally consolidated the norms that were previously foreseen in the Government regulations. According to the amendments, minority secondary schools shall begin to implement minority education curricula with an increased Latvian-language component as of September 2004. However, in grades 10–12, of state and municipal general secondary education institutions up to 40% of the total number of classes will still be taught in the minority language. Schools will be able to choose which subjects they shall teach in Latvian and which they shall teach in the ethnic minority language. This increase will be phased in, beginning with grade 10 in 2004, followed by grade 11 in 2005 and grade 12 in 2006. The bilingual curriculum of primary schools will not be affected by the amendments.

Whilst noting the explanation provided by the State, for the adoption of amendments to the Education Law, particularly the gradual transition to Latvian as the language of instruction, the Human Rights Committee (the HRC) remains concerned about the proposed time frame for the transition and urges Latvia to take all necessary measures to prevent negative effects on minorities during this transition.¹⁴ In addition, the Committee of Racial Discrimination (the CERD) has encouraged Latvia to remain

¹² Human rights in Latvia, Latvian Center for Human Rights and Ethnic Studies, http://www.humanrights.org.lv/upload_file/CTP2003_EN_labots.pdf

¹³ Grisankova and Grisankov v. Latvia, Application No.36117/02, <http://cmiskp.echr.coe.int/tkp197/portal.asp?sessionId=95521&skin=hudoc-en&action=request>

¹⁴ Concluding observations of the Human Rights Committee: Latvia. 06/11/2003, CCPR/CO/79/LVA, para 20, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.79.LVA.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.79.LVA.En?Opendocument)

flexible to the needs of people who are affected by the education reform, it also stresses the importance of close dialogue with schools and calls upon Latvia to monitor whether a high quality of education is maintained. Both committees express concern about the distinction made in providing state support to private schools based on the language of instruction, and urge Latvia to ensure that state subsidies are provided to private schools in a non-discriminatory manner.¹⁵

The Latvian National Human Rights Office concluded that language reform is not contrary to human rights provisions, provided that the State ensures that the quality of the education will not decrease.¹⁶

Whereas, minority representatives have organised and continue to organise large-scale anti-reform demonstrations,¹⁷ the government and the majority in parliament maintain the view that the reforms will be implemented and realised according to the approved time-schedule and plan. As a result the situation of language reform has become more and more polarized. On 21 July 2004, a group of Latvian MPs submitted an application challenging validity of the legislative provisions substantiating the reform to the Latvian Constitutional Court. **PLEASE, COULD YOU UPDATE THE DECISION.**

5. The Right to Provide Education in Independent, Non-State Schools in the official versus non-official language

Acquisition of pre-school, basic and secondary education at an institutions established by the State or by local governments, are financed from the State budget or local government budgets. A private educational institution may determine the fees for the acquisition of education. For programmes of higher education, the State covers the fees for the acquisition of education only for a specified number of students in accordance with the State procurement specified for the relevant year, for other student positions each institution of higher education may determine the fees for the acquisition of education. However, a student may receive State credit for studies in higher educational programmes.

Each local government has an obligation to ensure that the children, residing in their administrative territory, have the opportunity to acquire pre-school education and basic education at the educational institution closest to their place of residence. Furthermore, municipalities provide organisational assistance to the educational institutions in their administrative territory by the provision of educational and methodological literature and other teaching materials. However, the capability of municipalities to provide this assistance is different in various regions of Latvia. As a result, in some municipalities parents are not required to pay for text books, whereas in others, parents are required to spend a significant amount on study materials. Local municipalities are providing assistance to children from poor families, for example by providing free meals in school, study materials.

According to Article 23 of the Education Law, it is not only the State and the municipalities, but also private persons (natural and legal) who may establish educational institutions. The establishment, registration and accreditation of education institutions established by private persons is carried out in the same way as that of State and municipal educational institutions. The State and the municipalities may participate in the founding of private educational institutions. Private educational institutions may provide pre-school education, basic education, secondary education and higher education. A private educational institution may determine the fees for the education.

Private educational institutions are financed by the founders. According to the Education Law¹⁸ the State and the municipalities shall participate in the financing of private educational institutions in accordance with the Government regulations regarding minimum costs for the implementation of educational programmes per one student, if such educational institutions provide accredited basic

¹⁵ Human rights in Latvia, Latvian Center for Human Rights and Ethnic Studies, http://www.humanrights.org.lv/upload_file/CTP2003_EN_labots.pdf

¹⁶ Annual Report of the Latvian National Human Rights Office, 2003, <http://www.vcb.lv/zinojumi/2003.g.zinojums.pdf>

¹⁷ Are there articles/reports in "usual" foreign languages available on this specific issue

¹⁸ Article 59(2) of the Education Law.

education and general secondary educational programmes **in the official language**. Both the CERD and HRC have expressed concerns about the distinction made in providing state support to private schools based on the language of instruction. They have also urged Latvia to ensure that state subsidies be provided to private schools in a non-discriminatory manner.

The state controls the quality of education in private educational institutions through the process of accreditation and licensing, and by assessing the results of teaching process.¹⁹

6. Rights to Education of Asylum Seekers and Illegal Immigrants

Foreigners and stateless persons who are detained in Latvia are placed in the Olaines camp. The Olaines camp is a closed type institution with a regime similar to that of a prison with an open regime. This fact imposes a duty on the State to ensure that these people have a minimum level of social rights, including rights to education. Nevertheless, the legal acts regulating education in Latvia do not ensure basic education to children of illegal immigrants. In practice education is currently only ensured to those who understand the most popular languages. Since basic education in Latvia is compulsory and shall be provided without a charge, a child that has not obtained basic education and remains in the camp for a considerable period, shall be ensured with a possibility to obtain basic education.²⁰

7. Critical Evaluation of the Overall Impact of the ECHR on Rights in Education

People in Latvia are making increasing use of the ECHR to substantiate their rights in relation to the State or municipal institutions. The ECHR is applied not only by the Constitutional Court of Latvia, but also by other courts of Latvia. Furthermore, complaints against Latvia in the European Court of Human Rights are increasing. In 2003, 254 complaints were filed against Latvia.²¹ As a result both the Parliament and the Government have to pay attention to the requirements contained in the ECHR when making legislation, including those which regulate education. As a result, the impact of the ECHR on Latvia's legal system has increased, as has people's awareness of their rights under the ECHR.

In general, Latvia has an effective system ensuring the right to education,²² but there are several aspects of the rights to education that can be improved, for example, language reform can be cited as area for improvement.

¹⁹ Articles 15, 20, 25 of the Education Law.

²⁰ Līga Bikseniece, the Head of Analysis Department of the Latvian National Human Rights Office, "Vai sociālās tiesības ir arī nelegālajiem imigrantiem", 28.01.2003. Jurista Vārds No.4(462), <http://www.vestnesis.lv/index.php?mode=DOC&id=70616>

²¹ Human rights in Latvia, Latvian Center for Human Rights and Ethnic Studies, http://www.humanrights.org.lv/upload_file/CTP2003_EN_labots.pdf

²² Annual Report of the Latvian National Human Rights Office, 2003, <http://www.vcb.lv/zinojumi/2003.g.zinojums.pdf>