

## **Abstracts for the Attendance of the Venice Commission on 20.02.2020**

### **Introduction**

Education of national minorities has been among the matters of my focus since 2013 when I conducted monitoring at educational establishments that implement education programs for national minorities. Summary of the monitoring results, the international regulations, recommendations and comments issued by international institutions concerning practical implementation of the international regulations in the Member States, case law of the European Court of Human Rights in the matters related to national minorities and language issues, examples of bilingualism in other countries, historical development of the Republic of Latvia and the education system and the relevant national regulations have enabled me to publish in 2014 a survey “Bilingual Education” that contained conclusions and proposals for improvement of education system with the view to ensure protection of the rights and interests of children.<sup>1</sup> The survey can serve as a useful tool for better understanding of the situation in Latvia.

**Regarding compliance of the recent amendments (since 2018) to regulatory acts of the Republic of Latvia in relation to education in minority languages with the Framework Convention for the Protection of National Minorities, in particular articles 13, 14, 15 thereof, and with the principle of non-discrimination in general.**

I would like to draw attention to the fact that implementation of education programs for national minorities does not mean provision of education in minority language. It means the possibility to learn the minority language as a part of education process, and such possibility shall be preserved at preschool and elementary school level. No education in minority language was available in Latvia even before the above-mentioned amendments.

The State has the duty to provide the possibilities to learn minority language and culture also as a part of education system, and the State has been, and shall be respecting that duty.

Article 14, Para 2 of the Framework Convention for the Protection of National Minorities stipulates that “In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavor to ensure, as far as possible and within the

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<sup>1</sup>Bilingvālā izglītība, Latvijas Republikas tiesībsargs, Rīga, 2014., pieejams <http://www.tiesibsargs.lv/lv/pages/petijumi-un-publikacijas/petijumi>

framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language”. The legal norm referred to above provides for two alternatives: “opportunities for being taught the minority language” or “receiving instruction in this language”. Article 14, Paragraph 2 shall not be construed to impose obligation on the State to ensure that the two above-listed conditions are met; the State shall implement any one or both of them at their sole discretion. If adequate opportunities for learning the minority language are ensured, the obligations prescribed by Article 14, Paragraph 2 of the Framework Convention for the Protection of National Minorities are duly met.

Section 2 of the Law on Amendments to the General Education Law of 22 March 2018 supplements Section 43 of the Law with a new Part Two stipulating that an educational establishment has the right to include in the general secondary education programs certain syllabic disciplines apart from those envisaged by the national general secondary education standard including education content related to the minority language, minority identity and integration of national minorities in the society of Latvia. Educational establishments can therefore provide at their sole discretion the teaching of national minority language and culture at secondary school. Significant proportion of use of the person’s native language is preserved at elementary schools as well.

Education system in Latvia, in particular in early stages – at preschool and elementary school – enables the children who belong to national minorities to preserve and develop the minority language and culture also in the framework of education system, and the contested norms comply with the Framework Convention for the Protection of National Minorities.

**Whether or not consulting members of society, in particular representatives of minorities, took place in the course of development of the amendments?**

Article 15 of the Minority Convention stipulates that the Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them. The right of minorities to participation in social life is subject to ample interpretation. Therefore, adherence to the principle of good legislation in the adoption of decisions that affect the rights of minorities means respecting of the right to participation of individuals who belong to national minorities, that is, the opinions and

proposals of the concerned individuals or community groups are duly heard and assessed.

This matter has been addressed by the Constitution Court in case No. 2018-12-01. The Court established that all proposals filed within the prescribed period have been discussed and assessed. The opinion of Advisory Council on the matters related to education of national minorities has also been duly assessed.

### **What are the considerations that substantiate different treatment of education in the EU languages and the non-EU languages?**

Equal treatment of all languages is ensured as far as education program for minorities is implemented. No transnational treaties provide for the right to special proportion of use of a minority language in the education process that differs from the proportion prescribed by the Education Law.

Unlike education programs for national minorities, the exception provided for in Section 9, Part Two, Paragraph 2.<sup>1</sup> is aimed at facilitating advanced uptake of the foreign language in question, rather than developing of culture and identity of the country in the language of which part of education content is taught. Examples include Riga French Lyceum, Riga English Grammar School and Grammar School of Nordic Languages. Therefore, the students who receive advanced instruction in any of the official languages of the EU Member States cannot be compared to those who receive instruction under education programs for national minorities.

### **Why is it necessary to reduce the time (proportion) for education in minority languages?**

The amendments envisage introduction of uniform secondary education standard and transition to education at secondary school exclusively in the official language, increasing the proportion of Latvian language applied in educational programs for minorities on the level of basic education: at least 50% for grades 1 to 6; at least 80% of the aggregate learning load in academic year for grades 7 to 9, (from 1 September 2019 for grades 1 to 7; from 1 September 2020 for grade 8 and grades 10 to 11, and from 1 September 2021 for grade 12).

The amendments form a part of education reform pursued by the State in transition to uniform education system in the official language. Latvian language is described in the fifth paragraph of Preamble to Satversme of the Republic of Latvia as a foundation of democratic, cohesive society, meaning

that Latvian language is the one that unites people of different origin in Latvia. Therefore, the State has to foster it to become the common language of the entire society.<sup>2</sup> Another essential objective is fostering the preparedness of young representatives of national minorities to pursue post-diploma studies and increase of their competitiveness at labor market in Latvia.<sup>3</sup>

Proportionality of the applied means and the goal to be achieved has been ensured because gradual transition to education in the official language is pursued in Latvia since 1998. Further, according to Paragraph 66, Subparagraph 1 of Transitional Provisions of the Education Law, implementation of secondary education programs in Latvian language for grades 10 and 11 shall start from 1 September 2020, and for grade 12 – from 1 September 2021. The transitional period of more than twenty years is considered proportional.

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<sup>2</sup> Comments on Satversme of the Republic of Latvia, Introduction, Chapter I, General Provisions. Group of authors under scientific guidance of Prof. R.Balodis. Riga: Latvijas Vēstnesis 2014., pp.131.

<sup>3</sup> Bilingual Education, Ombudsman of the Republic of Latvia, Riga, 2014 – Chapter 5.7, Para 2.