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A Minority's Right to Its Language

A Study on the Latvian State Language Law and Its Conformity with International
Human Rights Standards

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Contents

SUMMARY	1
ACKNOWLEDGEMENTS	2
1 INTRODUCTION	3
1.1 Purpose and Structure of the Study	3
1.2 Historical Summary and Demographic Situation	5
1.3 Defining the Latvian Minorities for the Purpose of the Study	7
1.3.1 What Is a “Minority”?	8
1.3.2 Which Are the Minorities in Latvia?	9
2 A MINORITY’S RIGHT TO ITS LANGUAGE UNDER INTERNATIONAL LAW	11
2.1 Education	11
2.1.1 Educational Institutions	11
2.1.2 Schooling Conducted in Minority Languages	14
2.1.3 The Right to be Taught the Minority Language	20
2.1.4 Summary	21
2.2 Media	22
2.2.1 Press	22
2.2.2 Broadcasting	23
2.2.3 Summary	25
2.3 Public Sphere	26
2.3.1 Contact with Public Authorities and Institutions in General	26
2.3.2 Court Proceedings	29
2.3.3 Summary	30
2.4 Private Sphere	31
2.4.1 Private Sphere and Community with Others	31
2.4.2 Topography	32
2.4.3 Personal Names	32
2.4.4 Signs, Announcements and Other Notices	34
2.4.5 Use of Language with Members of Transborder Communities	35
2.4.6 Summary	35
3 THE LATVIAN STATE LANGUAGE LAW AND ITS CONFORMITY WITH INTERNATIONAL HUMAN RIGHTS STANDARDS	37
3.1 Public and Private Sphere (Article 6-21)	38
3.1.1 Contents of the Articles	38

3.1.1.1	Article 6	38
3.1.1.2	Article 7	39
3.1.1.3	Article 8 and 10	39
3.1.1.4	Article 11	39
3.1.1.5	Article 20	40
3.1.1.6	Article 21	40
3.1.2	Conformity with Human Rights Standards	41
3.1.2.1	Private Life and Freedom of Expression	41
3.1.2.2	Freedom of Association	43
3.1.2.3	Principle of Non-discrimination	43
3.1.2.4	Uncertainty in Legislation	46
3.2	Court Proceedings (Article 13)	47
3.2.1	Contents of the Article	47
3.2.2	Conformity with Human Rights Standards	47
3.3	Topography and Names (Article 18-19)	48
3.3.1	Contents of the Articles	48
3.3.1.1	Article 18	48
3.3.1.2	Article 19	49
3.3.2	Conformity with Human Rights Standards	50
3.4	Education (Article 14)	51
3.4.1	Contents of the Article	51
3.4.2	Conformity with Human Rights Standards	52
3.5	Media (Article 16 and 17)	53
3.5.1	Contents of the Articles	53
3.5.2	Conformity with Human Rights Standards	54
4	CONCLUSIONS	56
	SUPPLEMENT	57
	REFERENCES	66
	Bibliography	66
	International Instruments and Documents	68
	Cases	69
	Latvian Legislation and Praxis	71
	Other References	73

Summary

Since the collapse of the Soviet Union in 1991, the restored Baltic States have been struggling with the consequences of half a century of Soviet rule. One of the problems has been the substantial demographic change. As a result of this, when the pressure from Moscow relieved and after the independence, some laws were adopted for the purpose of strengthening the conditions of the languages in these countries and make it more difficult to become a citizen. The laws have been criticised for containing discriminating elements against the minorities living in these countries.

In 1991 the Latvian State Language Law was adopted. The law confirms the position of the Latvian language as state language in Latvia and regulates the use of language in public and private sphere. This study goes into detail of the Latvian language law to see if it corresponds with international human rights standards and gives the minorities in Latvia the protection and rights they are entitled to.

The first part of the study contains an attempt to elucidate what more exactly lies in the meaning of a minority's right to its language.

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1 Introduction

Since the collapse of the Soviet Union in 1991, the restored Baltic States have been struggling with the consequences of half a century of Soviet rule. One big problem has been the substantial demographic changes. During the Soviet time there was a mass immigration by Russians to the Baltic States. Above all, this has led to a difficult situation in Latvia, where ethnic Latvians now constitute 58 % of the population and persons with Russian ethnic origin constitute a whole 30 %.¹

As a result of these demographic changes in the late 1980s, when the pressure from Moscow relieved and after the independence, some laws were adopted, for the purpose of strengthening the conditions of the Latvian language and make it more difficult for non-Latvians to become citizens. Following criticism from notably the Conference of Security and Co-operation in Europe (CSCE), the Council of Europe and Russia alleging human rights violations, accusing the laws of containing discriminating elements against minorities, the most controversial regulations have been changed.

In 1999 the Latvian Parliament, the Saeima, adopted a new language law. The law confirms the position of the Latvian language as state language in Latvia and regulates the use of the language in public and private sphere. The aim of this study is to go into detail of the State Language Law to see if it corresponds with international human rights standards.

1.1 Purpose and Structure of the Study

The purpose of the study is to go into detail of the Latvian State Language Law and compare it with some of the most important international human rights instruments that can be used for the protection of minorities, to see if the law confirms with their provisions and regulations and if it gives the minorities in Latvia the protection and rights they are entitled to. As the title of the study suggests, the study will not discuss the different minority rights in general, but only the rights associated with language.

In modern history there is a common recognition that minorities should be permitted to maintain activities and characteristics peculiar to their culture. Many international instruments, as well as many states in their national legislation, recognise that members of linguistic minorities are entitled to the right to use their language with other members of their group. There remains in practice many

¹ Data of the Central Statistical Bureau of Latvia at www.csb.lv/Pres/census6.htm.

problems related to what exactly this right means. What is the extent of the possible application of a minority's right to use its language? Before the comparison between the State Language Law and the human rights instruments follows, an attempt will be made to try to elucidate what more exactly lies in the meaning of a minority's right to its language. This attempt will be divided into four areas where the right to a language could possibly be applied. The comparison with the State Language Law that follows will be based on the facts described in this chapter. For defining the rights the International Covenant on Civil and Political Rights (hereafter the CCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter the ECHR) form the basis. These instruments have been selected for the purpose of this study to represent international United Nations standards and regional European standards. The rights and provisions set by the instruments have an established praxis and leave the possibility for persons directly to claim their rights stated therein. The rights and provisions laid down in the Framework Convention for the Protection of National Minorities (hereafter the Framework Convention or just Convention) will also be presented. The Framework Convention does not include the petition procedure, but an annual state reporting system for controlling the observance of its regulations. The rights and provisions provided for are held very widely, which causes difficulties in the use and interpretation of them and further undermines the Convention. Anyway, the Framework Convention is the first legally binding instrument solely devoted to the protection of national minorities and will therefore besides the CCPR and the ECHR be used in this study. There are even other instruments in International Law that can be used in the protection of minorities, but this study is confined to be based only on these three. Not all provisions and regulations in these instruments presented here will be used later on in the comparison. The chapter does under no circumstances claim to be complete.²

In the identification of the individuals and groups who may claim the benefits following from the language rights there is also uncertainty. There is still no generally accepted definition of a minority or a national minority in International Law. Before it turns to a closer illustration of a minority's right to its language, some discussions around the definition of a minority conception is required. To be able to correctly assimilate the observations coming from this study, it is furthermore of uttermost importance to know the background of the State Language Law and of the demographic situation in Latvia today. Therefore,

² In 1992 Latvia signed and ratified the CCPR and in 1995 the ECHR was signed and ratified. In 1995 the Framework Convention was signed, but Latvia has still not ratified it. On 8 March 2001 the ratification was again rejected by the Latvian Parliament. The Parliamentary Assembly of the Council of Europe has recommended a ratification of the Convention by Latvia as a "matter of priority" (*Honouring of Obligations and Commitments by Latvia*, Resolution 1236). The OSCE High Commissioner on National Minorities has pointed out that "specific matters will have to be reviewed upon Latvia's anticipated ratification of the Framework Convention" (press statement on 31 August 2000).

before the study takes over, a short summary of the Latvian history will be presented.

1.2 Historical Summary and Demographic Situation

The history of the Latvian people is interconnected with their location at the interface of European and Russian cultural influences and with neighbouring Great Power struggles to establish supremacy over their homeland. In 1918 Latvia for the first time became a sovereign state and a national identification process began. In 1922 the constitution was adopted. The Latvian language became the state language and national symbols were introduced. Through the new constitution the minorities in the country received a guarantee regarding cultural autonomy.

In 1939 Latvia was forced to enter into a pact of mutual assistance with the Soviet Union and in June the following year the state fully came under Soviet rule. In 1941 during a three-year period, Germans occupied the country. After that Latvia was again incorporated into the Soviet Union.

During Gorbachyov's perestroika and glasnost steps were taken in the direction of independence. The Soviet occupation was declared illegal and a language law was adopted that declared Latvian to be the state language again. The final phase in Latvia's transition to independent statehood was characterised by members of the Popular Front gaining control of the Latvian Supreme Soviet. On 4 May 1990, the Latvian Supreme Soviet, following Estonia's lead, declared its intention to re-establish the Latvian State.³ At the same time the old constitution, the Satversme, from 1922 was restored. Like Estonia, however, Latvia was still not prepared to go as far as Lithuania's declaration of unilateral independence.

In connection with the coup d'état against Gorbachyov in August 1991 a law on Latvia as a sovereign state was adopted⁴ and with that Latvia had declared its total independence from the Soviet Union.⁵

During the Soviet time there was massive immigration by Russians and other Slavs to Latvia. As part of the Soviet Federation, the Latvian union republic became one of the most urbanised and multiethnic regions in the USSR.⁶ Russian

³ *Declaration of the Supreme Soviet of the Latvian SSR on the Renewal of the Independence of the Republic of Latvia.*

⁴ *Constitutional Law on the Republic of Latvia Status as a State.*

⁵ Ziemele, *State Continuity and Nationality...* 1998 p. 167.

⁶ Smith 1996 p. 163.

specialists and workers migrated to fill jobs in newly built enterprises. Beside the economic immigrants there was also a big group of immigrants with a background in the military services. Between 1959 and 1989 the Russian population in Latvia grew by 350 000 while the population of ethnic Latvians increased by only 90 000. During the 1980s the last mentioned group alone annually contributed to the growth of non-Latvians with 7000-8000 persons.⁷ Taking into account that the whole Latvian population in 1959 was not bigger than 2,1 millions and in 1989 2,7 millions, these number are very high.⁸

The massive immigration, the fact that thousands of Latvians were killed or exiled during the Soviet consolidation before and after the second World War, the thousands of Latvians that died in the war and the traditional low birth rates in Latvia⁹ almost made the Latvians a minority in their own country. In 1935 the Latvian population constituted out of 77 % ethnic Latvians and about 9 % were of Russian ethnic origin. In 1996 the Latvians constituted about 53 % and the Russian community had grown to compose remarkable 34% of the population.¹⁰ In Riga, the capital, and in Latvia's seven largest cities the Russians were in majority.¹¹

It was not the high number of Russians itself that concerned the Latvians, it was the consequences. During the Soviet era, Russian migration outside Russia did not imply cultural adaptation. Russians lived and worked together, sent their children to Russian schools, consumed Russian entertainment and media and assumed that communication with others would be in Russian.¹² According to Valery Tishkov the "Russians residing in the Soviet Union republics had no overwhelming motivation to learn the language of the titular nationalities or become integrated into the non-Russian ethno-cultural environment".¹³ Language data support this perspective. In 1989 only 22 % of the non-Latvians knew Latvian and in Riga only 15 % of the Russians could speak Latvian. By 1993, however, 63 % of the Russians were able to carry out a conversation in Latvian.¹⁴

Latvians feared for their future as a nation and the survival of the Latvian language.¹⁵ Because of this since Latvia's rebirth in 1991, much of the state's political agenda has been dominated by ethno-politics. Psychological and historical factors of course also affect the politics. The cultural-linguistic basis for

⁷ Chinn and Kaiser 1996 p. 111.

⁸ Data of the Central Statistical Bureau of Latvia at www.csb.lv/Pres/census6.htm.

⁹ Chinn and Kaiser 1996 p. 111.

¹⁰ Data of the Central Statistical Bureau of Latvia at www.csb.lv/Pres/census6.htm.

¹¹ Chinn and Kaiser 1996 p. 111.

¹² *Ibid.* at p. 115.

¹³ Tishkov 1997 p. 125.

¹⁴ Chinn and Kaiser 1996 p. 115.

¹⁵ See for example Chinn and Kaiser 1996 p. 112; Ziemele, *The Dilemma of Language Use in Latvia...* 1998 pp. 30-31; and *Latvian Human Development Report* 1999 pp. 89-92.

mobilisation against the Soviet rule was reinforced by perceptions of Russian expansion in the region and gradual assimilation of Baltic and Finno-Ugric peoples by Russian society. In this context, Baltic national identities became even more closely wedded to language and culture than in other Soviet republics. Protecting the Latvian language and culture became the central justification for political activity already during the perestroika.¹⁶

Directly after the independence in 1991, a law on citizenship, based on a Latvian law of 1919, was adopted. Under its terms, most non-Latvians were not entitled to Latvian citizenship. Hard criticism from inter alia CSCE and the Russian Federation and the suggestion that Latvian membership of the Council of Europe might be blocked if the law was not changed, made Latvia's governing remove the most controversial parts of the law. A revised law without the quota element was passed at the end of July 1994.¹⁷

Language legislation also favours the core nation. In 1989, already before the independence, a language law was implemented, which, among other things, required that Latvian become the state language. For many Russian speakers the new language policy served as a major obstacle to participation in the political establishment and as a hindrance to social mobility, especially to membership of the public sector-based professions.¹⁸

1.3 Defining the Latvian Minorities for the Purpose of the Study

Several international instruments have been adopted and mechanisms created, many of them without legally binding character, to deal with the protection of minorities. There is still however no commonly accepted definition of minority or national minority in international law.¹⁹ Nevertheless there have been made plenty of definition proposals and most of them have some components in common. In a study made by Gudmundur Alfredsson these components have been collected and examined.²⁰ The study made by Alfredsson makes the basis of the following discussion, trying to convey a vague definition of the minority concept. After that, the Latvian minorities will be defined

¹⁶ Melvin 1995 pp. 25-27.

¹⁷ Ziemele, *State Continuity and Nationality...* 1998 pp. 207-210.

¹⁸ Smith 1996 p. 165.

¹⁹ See for example Gilbert 1999 p. 55; Alfredsson 1998 p. 11; and Packer 1995 p. 23. For a compilation of the proposals that have been made see Andrysek 1989.

²⁰ Alfredsson 1998.

1.3.1 What Is a “Minority”?

Summarised by Alfredsson the elements that have to be taken into consideration when talking about a minority are: objective characteristics, self-identification, the numbers and long-term presence on the territory concerned.²¹

Objective characteristics require a certain degree of affinity between the members of the group. The junction can be of national or ethnic origin, cultural, linguistic and/or religious ground. These objective requirements are to be found in many instruments, European as well as international. Article 27 in the CCPR speaks about “ethnic, religious or linguistic minorities” and their right to enjoy “their own culture, to profess and practice their own religion, or to use their own language”. The Framework Convention, although introducing a concept of “national” minority, refers to “ethnic, cultural, linguistic or religious identity” of the persons belonging to a national minority.^{22 23}

The subjective element of self-identification is of big importance in any definition of who belongs to a minority. No one must be forced either to “be” a minority member or relinquish his or her “being” a minority member.²⁴ It is an individual decision whether he or she wants to be a member of a minority, (if the objective characteristics are met of course). On the other hand, the group must accept the individual as its member.

The next requirement, the numbers of people belonging to the group, is quiet clear. A minority group can not make up more than half of the state population. If there is no group in the country bigger than half of the population, all groups would be called minorities and stand under minority protection.

The last component in defining a minority, the long-term presence in the territory, might be the most difficult one to determine. How long must a person have been in the country to be considered a minority member? Refugees, migrant workers, immigrants and other aliens all stand under the protection of human rights (with exception of political rights in some cases), but they do not automatically constitute minorities. According to Alfredsson the minority standard is reached when “the individuals concerned identify more closely with the new territory or country (where they now live) than the old territory or country (where they come from)”, which would take about a generation.²⁵ If there already exist minorities

²¹ *Ibid.* at pp. 12-13.

²² Preamble at par. 7; and Art. 6(1).

²³ For a discussion about the different meanings of “national” see for example Gilbert 1999 pp. 55-56.

²⁴ The requirement of self-identification is stated in Art. 3 of the *Framework Convention*. See further the *Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries* (ILO) Art. 1(2) and the Preamble, which refers to removing assimilative standards, which were contained in the earlier ILO conventions.

²⁵ Alfredsson 1998 p. 13.

in a specific country, migrant workers or even visitors constituting those minorities are entitled to the exercise the minority rights. They should not be denied the right, in community with members of their group, to enjoy their culture, to practice their religion and speak their language.²⁶

If the stated elements are carried out, a minority is to hand. The existence of a minority in a given state party does not depend upon a decision by that state party.^{27 28}

1.3.2 Which Are the Minorities in Latvia?

In 1989 the ethnic Latvians constituted 52 % of Latvia's population. 34 % were of Russian ethnic origin. Of the rest of the population 4,5 % were of Belarussian ethnic origin, 3,4% of Ukrainian, 2,3 % of Polish, 1,3 % of Lithuanian, 0,9 % of Jewish, 0,3 % of Gypsy, 0,2 % of Tatar, 0,1 % of German and 0,3 % of others.²⁹ The members of these groups have their ethnic origin in common. The other objective characteristics, culture, language and religion, are also rather often to hand.

Ethnic Russians constitutes the biggest minority in Latvia. They speak Russian, mostly profess to the Orthodox Church and, naturally, maintain Russian cultural traditions. Other ethnic minorities in Latvia could be scrutinised in a similar manner, but an important remark must be made. Although Russian has lost its formal status as the means of communication among the "fraternal peoples" it had in the Soviet times, it is still widely used in Latvia. Besides the Russian community it is also used within several other ethnic communities, including a number of ethnic Latvians. It has also been used as a mean of communication among different ethnic communities. The Latvian society does not seem to be integrated. One can observe segregation between "Latvian" and "non-Latvian"

²⁶ See *General Comment by the Human Rights Committee on Article 27 of the International Covenant on Civil and Political Rights* at par. 5(2).

²⁷ *Ibid.*

²⁸ In Latvian legislation there are several terms in order to identify persons, who constitute minority: "national minority" (Law on Religious Organisations Art. 6(4)); "ethnic minority" (Education Law Art. 9); "state ethnic minority" (Law on Radio and Television Art. 62(4)); "national ethnic groups" (Law on Free Development and Right to Cultural Autonomy of national and Ethnic Groups of Latvia); and "minority" (Law on Repatriation). None of these laws reveal what is meant when using one or another term. In a draft law "On the Rights of Minorities", the terms "ethnic minority" and "minority" are used as synonyms. Besides, there is a definition of minority included. In accordance with Article 1 of the Draft Law a minority is a "group of citizens and non-citizens of the Republic of Latvia or aliens and stateless persons who have a permanent residence permit in the territory of Latvia and who are united by common culture, language or religion, who are aware of peculiarities of their culture and are willing to preserve and maintain them and who constitute less than 50 % of the overall population of the state".

²⁹ Dreifelds 1990-91 p.48.

(or “Russian-speaking”).³⁰ In terms of self-identification, the settler communities are not as yet ethnic-based minorities. Being a Russian-speaker continues to form the main substance of their identity.³¹ Thus, one could argue that there is a “Russian-speaking” minority in Latvia, which is not necessarily of a Russian ethnic origin.

The element of self-identification is of a subjective character and is not of major importance in this case, as here is just defined who could be in question for minority rights.

Neither the number criterion is of any big interest. As the information above shows, it is enough to certify that there are many ethnic groups in Latvia, of whom the ethnic Latvians constitutes more than half of the population.

The long-time presence in the country is special in the Latvian case. The complexity of the Latvian situation depends on the fact that waves of newcomers reached Latvia all through the post-war period. The newcomers largely had Russian ethnicity or language as a common denominator. It would be difficult to draw a line and say that the persons who arrived in Latvia in the 50’s and whose children are born there belong to a minority, but people who arrived during the 80’s do not. This seems to be even dangerous as it could create different legal regimes for persons sharing a common language and/or ethnicity. It also seems to be unnecessary, as according to the United Nations Human Rights Committee (hereafter the UN Committee or just Committee) both categories enjoy minority rights under at least Article 27 of the CCPR.³² It also has to be taken into account that these people very likely will never depart from Latvia.³³

To summarise, the term minority used in this paper will comprise all linguistic minorities, but with an accentuation on the big Russian-speaking minority.

³⁰ Abolina, Aboltinš and Mitš 2000 p. 4.

³¹ Melvin 1995 pp. 25-27.

³² *General Comment by the Human Rights Committee on Article 27 of the International Covenant on Civil and Political Rights* at par. 5(2).

³³ See for example Ziemele, *The Dilemma of Language Use in Latvia...* 1998 p.34; and Abolina, Aboltinš and Mitš 2000 p. 3.

2 A Minority's Right to Its Language under International Law

In the following chapter the meaning of a minority's right to its language will be examined, exposed and put into practice in different fields. The first field to be presented is the field of education. The different human rights instruments chosen for this study will be analysed as to show how they can be used to protect a minority's right to use its language in different educational institutions. As this is the first field, the instruments will be presented more thoroughly, not always connected with the special field of education. For example, this section contains also a comprehensive presentation of the non-discrimination principle, which is an important tool utilised in the protection of minorities and applicable in all the fields where the language right can be exercised.

2.1 Education

To teach children in a language they are less familiar with, can cause a disadvantage to them in their academic performance and adaptation. Moreover the education built upon the state language is at the expense of their knowledge of their mother tongue, which could be basis for identification problems. Following questions arise: Is there in the International Law a right for minorities to establish private educational institutions? Is there a right to use the own minority language in this education? Do linguistic minorities have the right to be taught their mother tongue? For many minorities, there could also be an important question if they can claim the right to be taught the majority language. In this chapter about education as one part of minorities right to its language, problems like these and additional issues will be dealt with.

2.1.1 Educational Institutions

One of the most important articles in the United Nations instruments on the protection of minorities is Article 27 of the CCPR. According to this article persons belonging to ethnic, religious and linguistic minorities, shall not be denied the right to "enjoy their own culture, to profess and practise their own religion, or to use their own language". In accordance with the opinion on protection of minorities prevailing at the time for the adoption of the article, the wording of it is

formulated in a cautious and vague manner. It leaves many questions open, for which an answer must be found by way of interpretation.³⁴

Article 27 has a negative formulation. Individuals “shall not be denied the right” ensured therein. The state parties are obliged not to deny persons belonging to minorities “in community with the other members of the group, to enjoy their own cultural, to profess and practise their own religion or to use their own language”. The article obligates the state parties to refrain from interference and to practice tolerance. Particularly prohibited are all forms of integration or assimilation pressure and all measures directed against or threatening the existence of ethnic, linguistic or religious minorities.³⁵

The non-interference character of the article has been pointed out in praxis. In three decisions in which the UN Committee agreed to consider Article 27 submissions, *Kitok v. Sweden*, *Lovelace v. Canada* and *Ominayak v. Canada*, it concluded that by their legislation or actions, governments were interfering with the cultural life of indigenous peoples constituting linguistic or ethnic minorities. All three matters confirm the non-interference nature of the article. In *Kitok v. Sweden*, reindeer herding and the decision regarding who could reside within a minority communal both came within the purview of Article 27 as examples of state intervention in a minority member’s cultural life. In *Lovelace v. Canada*, the Canadian government was similarly involved in restricting a person from contacts and ties with her community. In *Ominayak v. Canada*, government legislation and policies interfered with traditional community economic and social activities so intimately tied to the culture that they amounted to a denial of the right to enjoy one’s culture.

It is clear that the negative formulation of Article 27 obliges state parties not to interfere in minorities common enjoyment of their cultural life, but it does not exclude the possibility that the article simultaneously guarantees active participation and support on the part of the state in appropriate cases. The exact impact of the negative formulation has been the subject of many controversies. In the discussions leading up to the adoption of Article 27 most states refused the proposals, which would have meant obligations for them to intervene actively and concede the right to obtain for example public financial assistance to establish institutions. In the light of this the negative formulation could be seen as a solely non-interference clause that does not oblige the state parties to take positive measures.³⁶ On the other hand, it is clear from the discussions in the UN Committee and the General Assembly that the negative formulation was intentionally chosen in order to avoid that minority consciousness could be too stimulated. This is the target of those critics who view the specific protection of minorities going beyond individual protection against discrimination as only

³⁴ Nowak 1993 p. 485.

³⁵ Nowak 1993 p. 502.

³⁶ de Varennes 1996 pp. 134-136, 150-152; and Nowak 1993 p. 485.

making sense with positive actions. They assert that minorities are dependent on active support from their states in order to preserve their cultural, linguistic and religious identity. Otherwise, they would not in the long run be able to withstand the assimilation pressure normally exercised by the dominant majority.³⁷ However, Manfred Nowak summarises, direct, positive duties to guarantee rights absent specific threats at the horizontal level can not be inferred from Article 27. A basis for such an interpretation can not be found in the text, in the context, the purpose or the historical background.³⁸

In the light of the non-interference aspect of Article 27 linguistic minorities could not be denied the right to open, operate and manage private education. Restrictions and limitations from the state side in regard to establishing private schools for linguistic minorities are to be seen as violations of the non-interference principle of Article 27.

Nowak points out that the term “cultural life” of Article 27 is to be understood in a broad sense. In addition to the customs, morals, traditions, rituals, types of housing etc., that are characteristic of the minority, the term also covers for example the establishments of cultural organisations, the publication of literature in the minority’s language, as well as - as a sort of pre-condition - the right to pass on this culture by way of educating following generations, whether by setting up separate schools or by the corresponding respect for the cultures of minorities in public schools.³⁹

Article 13 of the Framework Convention also gives linguistic minorities this right. It obliges the state parties to recognise that “persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments”. This right shall be ensured within the framework of the parties’ education systems, particularly the regulations relating to compulsory schooling.⁴⁰ Similar to Article 27 of the CCPR, the exercise of the right referred to in Article 13 of the Framework Convention does not entail any financial obligation for the party concerned. Neither does it exclude the possibility of such a contribution.⁴¹

Article 5 of the Framework Convention further substantiates the right for minorities to create their own educational institutions. According to the article the parties undertake to “promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and

³⁷ Nowak 1993 pp. 500, 502.

³⁸ Nowak 1993 p. 504.

³⁹ Nowak 1993 p. 501.

⁴⁰ *Commentary on the Provisions of the Framework Convention* at par. 72.

⁴¹ *ibid.* at par. 73.

cultural heritage”. Not letting minorities create their own schools, would clearly violate the obligation to promote necessary conditions.⁴²

2.1.2 Schooling Conducted in Minority Languages

Due to the same reasons as above, a linguistic minority would have the right to use its own language in private education. The educational activities should be “their own” and they should have actual control over the creation and operation of these activities. The right under Article 27 to use the own language refers to the oral or written, public or private use of minority languages. State parties may not prohibit the common use of the language among members, nor may they prevent children belonging to a minority from learning and developing their language in (public or private) schools.⁴³

According to the commentary of the Framework Convention the state’s obligation not to interfere with a minority’s right to private education in their own language, does not mean that the state can not adopt appropriate regulations and standards for the education. A state may legitimately require that all children in private minority educational activities also learn the majority or state language without this being perceived as an interference with the minority’s right.⁴⁴

What about the right to schooling conducted in minority languages in public schools? In the *Belgian Linguistic Case* Article 2 of the First Protocol of the ECHR that deals with the right to education, this was the issue. The article states that: “No person shall be denied the right to education”. In this case, six groups of applicants claimed that various aspects of the Belgian legislation governing the use of languages in schools were inconsistent with the Convention. The applicants, who were French-speaking residents in the Dutch-speaking part of Belgium and in the Brussels periphery, wanted their children to receive education conducted in French. The first issue in the case was the scope of Article 2, and in particular whether the first sentence of the article imposes any positive obligations, and if so, which ones. The interpretation adopted by the European Court of Human Rights (hereafter the European Court or just the Court) was that;

⁴² Funding to private minority schools also raises a number of additional issues where the right to equality and non-discrimination may enter into play. The principle of non-discrimination would require, if a state provides financial assistance to any private school, that it does so in a reasonable and balanced way. According to de Varennes this means that in general “private educational activities in a minority language should also be eligible to any type of financial assistance provided to others by the government” (de Varennes 1996 p. 220). However, non-discrimination does not respond to identical treatment. A state may quite reasonably allocate a higher proportion of funds to private schools using a minority language of instruction in consideration of higher costs of educational materials in a less used language.

⁴³ Nowak 1993 p. 501.

⁴⁴ *Commentary on the Provisions of the Framework Convention* at par. 46 and 78.

“Article 2 does not recognise such a right to education as would require States to establish at their own expense, or to subsidise, education of any particular level and it does not have the effect of guaranteeing to a child or to his parents the right to obtain instruction in a language of his choice”.⁴⁵

The opinion of the European Court that the state is under no obligation to respect a student’s language preference may conform to Article 27 of the CCPR. No one can under this article claim the right to use his or her minority language in the public education. Nevertheless, as described above, minorities have the right to let their culture pass on to younger generations, which might be seen as an obligation on the state parties to, at least to some extent, offer education conducted in minority languages.⁴⁶

The European Court adds that a right to obtain schooling conducted in the language of his own choice would lead to absurd results and if that would have been the intention of the right, this would have been expressed clearly in the article.⁴⁷ Article 2 of the Protocol does, however, guarantee a right of access to educational institutions existing at a given time. Such access, moreover, constitutes only a part of the right to education. For the right to education to be effective, it is necessary that individuals should have the right to obtain official recognition of the studies, which they have completed. A specific complaint on the applicant’s behalf was that the authorities refused to recognise studies at secondary schools, which did not comply with the language laws. The European Court held that this refusal was not contrary to Article 2 itself, nor to Article 2 read in conjunction with Article 14 prohibiting discrimination, since those who had completed such studies could obtain recognition of them by passing an examination before a central board, a condition which did not, in all of the circumstances, impose unreasonable requirements. The Court pointed out that the objective of the two articles read in conjunction is more limited. It is to secure the right to education without discrimination on the ground, for instance, of language, and this had not been the case.⁴⁸

As shown, the non-discrimination principle could also be an instrument in the minority protection. No public activity by its very nature is outside the scope of non-discrimination.

Article 14 of the ECHR contains a general prohibition of discrimination in relation to the rights guaranteed by the Convention and Protocols. It is clear that Article 14 does not prohibit discrimination as such, in any context, but only in the

⁴⁵ *Belgian Linguistic Case* at p. 866.

⁴⁶ See p. 13 of the study.

⁴⁷ *Ibid.* at pp. 866-868.

⁴⁸ *Belgian Linguistic Case* at par. 9 of the judgement.

enjoyment of the rights and freedoms set forth in the ECHR. On the other hand, this was not for certain if Article 14 only came into play if there had been a violation of one of the other rights.⁴⁹ In the *Belgian Linguistic Case* the European Court held that the breach of Article 14 does not presuppose the violation of the rights guaranteed by other articles of the ECHR, as such an interpretation would have deprived Article 14 of its effectiveness.⁵⁰ In other words, a violation of Article 14 can never be considered in isolation, but must be considered together with another article of the ECHR. In cases where there would be no violation of another article taken alone, there could anyway be a violation of Article 14.

The next problem of interpretation is what forms of differential treatment are to be seen as discriminative in the light of the article. It is widely accepted that not all distinctions are necessarily discriminative. In the *Belgian Linguistic Case*, the Court clearly stated that Article 14 does not prohibit every distinction in treatment. What was required was an objective assessment of the facts and, whilst considering the public interest involved, striking a fair balance between the protection of the interests of the community and the respect for the rights and freedoms safeguarded by the ECHR.⁵¹ Equality and the right to non-discrimination require individuals to be protected against unreasonable or unacceptable differential treatment. How a court of law is to decide whether a particular distinction is acceptable or not involves a balancing act between the interests and priorities of the government and the interests and rights of individuals affected. A difference in treatment, which is aimed to eliminating an existing inequality, is in conformity with Article 14. For example a progressive income tax is not discriminatory provided the progressive measure is proportional and consequently results in a fairer distribution of income than would be the case without it. P. van Dijk and G.J.H. van Hoof make the summary that a violation of the principle of equality and non-discrimination arises if there is a differential treatment of equal cases, without there being an objective and reasonable justification, or if proportionality between the aim sought out and the means employed is lacking.⁵²

Another issue that must be kept in mind is the distinction between direct and indirect discrimination.⁵³ A law prohibiting any person of for example Chinese origin from becoming a police officer constitutes direct racial discrimination. The individual is denied access to a position because of race. But if a seemingly non-racial criteria, such as literacy in the state's state language or requirement as to height is demanded, it could still prove to be racial discrimination indirectly if one

⁴⁹ Jacobs and White 1996 p. 285.

⁵⁰ *Belgian Linguistic Case* at par. 9 of the judgement.

⁵¹ *Belgian Linguistic Case* at p. 884.

⁵² *Ibid.*

⁵³ Some confusion exists because of terminology. Instead of direct or indirect discrimination some jurisdictions refer to discrimination in law or in fact.

is able to demonstrate, for example, that a Chinese person will likely be unable to qualify for a position, because individuals belonging to his race are likely to be shorter or likely not to have the same level of proficiency as the majority in the state language. Government legislation, which on the surface is absolutely neutral in terms of race (or other criteria such as language), can in fact have a discriminatory impact because of a particular context, if it disproportionately affects certain groups of individuals.⁵⁴

The non-discrimination clause in the CCPR is to be found under Article 26. The principle of equality and the prohibition of discrimination runs throughout the whole CCPR. This is manifested in that, apart from a few exceptions⁵⁵, all rights of the CCPR apply equally to all individuals. In Article 2(1) the state parties obligate themselves to ensure that the rights of the CCPR are valid without discrimination to all individuals within their territory and subject to their jurisdiction. In Article 20(2) for instance, the parties commit themselves to prohibit all advocacy of national, racial or religious hatred inciting discrimination, hostility or violence. Article 26 guarantees a general right to equality before the law and equal protection of the law, as well as a general prohibition of discrimination directed at the legislature.

In contrast to the ECHR, which in Article 14 contains an accessory prohibition of discrimination, the CCPR provides for an independent right to equality in Article 26 in addition to the accessory prohibition of discrimination in Article 2. When a law equally valid for all individuals is manifestly applied arbitrarily by a court or an administrative authority, then the right to equality before the law has been violated, even when the specific legal consequence is completely unrelated to any other right of the CCPR. The same applies to the right to equal protection of the law.⁵⁶ As in the case of Article 14 of the ECHR, the equal treatment provided for in the CCPR does not mean in this context identical treatment.⁵⁷ Furthermore, a distinction constitutes discrimination only when it is not based on reasonable and objective criteria.⁵⁸

From Article 26 flows also the obligation on the state parties to take positive measures against discrimination. Measures taken in the respect of this article can not be regarded as discrimination against other applicants within the meaning of the article. Under the state parties' obligation to effective protection lies also the obligation through legislation to protect against discrimination from private parties. The article has so horizontal effect.⁵⁹

⁵⁴ de Varennes 1996 pp. 54-56.

⁵⁵ Art. 13 applies only to aliens; Art. 24 only to children; Art. 25 only to citizens; and Art. 27 only to members of minorities.

⁵⁶ Nowak 1993 p. 465.

⁵⁷ *Ibid.* at pp. 466-467, 473.

⁵⁸ *Ibid.* at pp. 469-471, 473.

⁵⁹ *Ibid.* at pp. 476-477.

Allegations that the Swedish Government discriminated against private schools by giving preferential treatment to public sector schooling in the field of education allowances and a variety of ancillary benefits, such as free transport by bus, free textbooks and school meals, were rejected by the UN Committee in the cases of *Blom and Lindgren et al v. Sweden*. In the latter view the Committee noted that;

“a state cannot be deemed to discriminate against parents who freely choose not to avail themselves of benefits which are generally open to all”.⁶⁰

The Framework Convention also contains a non-discrimination clause. Article 4(1) ensures all persons belonging to national minorities the right of “equality before the law and of equal protection of the law”. In this respect “any discrimination based on belonging to a national minority shall be prohibited”. Paragraph 2 requires the parties to adopt “adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority”. Such measures need to be “adequate”, that means in conformity with the proportionality principle, in order to avoid violation of the rights of others as well as discrimination against others. This principle requires, among other things, that such measures do not extend, in time or in scope, beyond what is necessary in order to achieve the aim of full and effective equality.⁶¹ According to the last paragraph, measures adopted in accordance with this article shall not be considered to be an act of discrimination.

In the *Belgian Linguistic Case*, the European Court further held that measures taken in the field of education might also affect the right to respect for private and family life or derogate from it. This would be the case, for instance, if their aim or result were to disturb private or family life in an unjustifiable manner.

The European Commission of Human Rights (hereafter the European Commission or just the Commission) has defined the respect for “private life” under the protection of Article 8 of the ECHR to have;

“the right to privacy, the right to live as far as one wishes, protected from publicity [...] In the opinion of the Commission however, the right to respect for private life does not end there. It comprises also, to a certain degree, the right to establish and develop relationships with other human beings especially in the emotional field, for the development and fulfilment of one’s own personality”.⁶²

⁶⁰ *Blom v. Sweden* at par. 10(2)-10(3) of the judgement; and *Lindgren et al v. Sweden* at par. 10(2)-10(4) of the judgement.

⁶¹ *Commentary on the Provisions of the Framework Convention* at par. 39.

⁶² *X v. Iceland*.

The right to respect for “family life”, guaranteed by the article, has as its principal element the protection of the integrity of the family. What then constitutes a “family”? The European Commission and European Court have considered a family to include husband, wife and children who are dependent on them, including illegitimate and adopted children. Relationships between brothers and sisters, taken together with those between parents and children are also covered, as relationships where parties are living together outside marriage. The concept is to be interpreted widely. The family life to be considered is not *de jure* family life, but *de facto* family life.⁶³

In the case a separate claim was made under Article 8. In its discussion of this article the European Court stated that as a result of the Belgian legislation;

“there has been the disappearance in the Dutch unilingual region of the majority of schools providing education in French. Consequently French-speaking children living in this region can now obtain their only education in Dutch, unless their parents have the financial resources to send them to private French-language schools. This clearly has a certain impact upon family life when parents do not have sufficient means to enrol their children in private school [...] Harsh though such consequences may be in individual cases, they do not involve any breach of Article 8. This provision in no way guarantees the right to be educated in the language of one’s parents by the public authorities or with their aid. Furthermore, in so far as the legislation leads certain parents to separate themselves from their children, such a separation is not imposed by this legislation: it results from the choice of the parents who place their children in schools situated outside the Dutch unilingual region with the sole purpose of avoiding their being taught in Dutch, that is to say in one of Belgium’s national languages”.⁶⁴

According to Fernand de Varennes it may well be acceptable to require children to use the official or majority language when they are participating in activities associated with the school’s public mandate. State education is to be seen as a public service. Students in a class or other official activities are thus receiving a service from the state, and not using their language in community with other member of their linguistic minority. To forbid the use of the minority language during the leisure time on the playground or in the schoolbus, although still under the care of public agents, there would be a violation against Article 27 of the CCPR and the right, to use the language in community with other though.⁶⁵

⁶³ Jacobs and White 1996 p. 175 ff; and van Dijk and van Hoof 1998 p. 504 ff.

⁶⁴ *Belgian Linguistic Case* at par. 7 of the judgement.

⁶⁵ de Varennes 1996 p. 165.

2.1.3 The Right to be Taught the Minority Language

So far it has been concluded that linguistic minorities have the right to create private education and to use their minority language in this education, but does there also exist a right to be *taught* the minority language?

Article 27 may not prevent children belonging to a minority from learning and developing their language in (public or private) schools. Maybe, one could under the article even claim the right to be taught the minority language.⁶⁶

The right to be taught the minority language is expressively laid down in Article 14 of the Framework Convention. The article states that “every person belonging to a national minority has the right to learn his or her minority language”. In general the article does not imply any positive action from the state side, but according to paragraph 2 of the article “in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand”, the parties shall ensure that persons belonging to those minorities get the possibility to be taught the minority language or receive instructions in this language. However, in recognition of financial, administrative and technical difficulties associated with instruction of or in minority languages this provision has been worded very flexibly and the instruction is dependent on the available resources of the party concerned. The wording “sufficient demand” allows parties to take account of their countries’ own particular circumstances.⁶⁷

As shown, the right to be taught a minority language as pointed out in Article 14 of the Framework Convention, can easily be limited by the same Article. Article 19 does further provide for the possibility of limitations, restrictions or derogation of the implementations of the principles enshrined in the Convention. Only if the undertakings included in the Framework Convention have an equivalent in other international legal instruments, in particular the ECHR, the limitations or restrictions can not go further than is allowed by these instruments.⁶⁸

There are also other regulations in International Law, under which the right to be taught one’s mother tongue could come into question, for example under the interpretation of the right to freedom of expression.

The freedom to express one’s opinion is probably the most universally recognised “human right”.⁶⁹ At an international level it is obvious that freedom of expression includes freedom with respect to the content of opinions expressed, but there remains some ambiguity as to the position occupied by language as the means of expressing opinions. It is likely that language is a consistent with

⁶⁶ See p. 13 and 15 of the study.

⁶⁷ *Commentary on the Provisions of the Framework Convention* at par. 75-77.

⁶⁸ *Ibid.* at par. 88.

⁶⁹ Janis and Kay 2000 p. 138.

freedom of expression in so far that it is a necessary component of the expression of opinions.⁷⁰ The freedom is guaranteed in Article 19 of the CCPR and Article 10 of the ECHR.

In the *Belgian Linguistic Case* the European Commission held the opinion that freedom of expression, ensured in Article 10 of the ECHR, does not comprise the right to be offered the opportunity to express one's opinion in a language of one's choice, the consequence of which would be the right to being taught that language.⁷¹ This would not be the case though if, for instance, an alien were denied access to being taught the vernacular or if the required facilities for this were not provided, since he would then be deprived of an independent means of expression, expression in a locally understood language.⁷²

For many minorities, there could also be an important question if they can claim the right to be taught the majority language. Knowledge of the state language or majority language is a factor of social cohesion and integration and for many minorities there is a need to learn this language. As described above, a state may legitimately require that all children in private minority educational activities also learn the majority or state language without this being perceived as an interference with the minority's right.⁷³

2.1.4 Summary

In the light of the non-interference principle of Article 27, linguistic minorities could not be denied the right to establish, operate and manage private education. In International Law on the whole there is a widespread recognition of linguistic minorities' right to create and operate their own educational activities and institutions. Article 13 and Article 5 of the Framework Convention also contain this right. Due to the same reasons a linguistic minority would have the right to use its own language in private education.

Nevertheless, this does not mean that the state cannot adopt appropriate regulations and standards for the education. For example the state may legitimately require that all children in private minority educational activities also learn the majority or state language.

The ECHR and Article 2 of the First Protocol that deals with the right to education or the right of respect for the private and family life do not involve the right to education conducted in a minority language in public schools. Maybe this right could be claimed under Article 27 of the CCPR.

⁷⁰ de Varennes 1996 p. 38.

⁷¹ *Belgian Linguistic Case* at p. 332.

⁷² van Dijk and van Hoof 1998 p. 569.

⁷³ *Commentary on the Provisions of the Framework Convention* at par. 46 and 78.

Language is a constituent of freedom of expression in so far as it is a necessary component of the expression of opinions, but as shown in the *Belgian Linguistic Case* this does not give a linguistic minority the right to be taught its mother tongue. Maybe the right could be claimed under Article 27 of the CCPR and under certain circumstances under Article 14 of the Framework Convention.

The CCPR, the ECHR as well as the Framework Convention all contain provisions about non-discrimination. The non-discrimination principle is an important instrument in the protection of minorities.

2.2 Media

Another situation in which a minority's right to use its language could be violated is where public authorities prohibit private media or publications in a minority language.

2.2.1 Press

The involvement of the state in media must conform to Article 27 of the CCPR and the non-interference provision.

One of the most important aspects of freedom of expression is the freedom of press. It represents a very efficient means to address the state authorities as well as society in general. The European Court has confirmed on a number of occasions that the press is covered by Article 10 of the ECHR guaranteeing freedom of expression. In *Sunday Times v. UK* it was ruled that newspapers enjoy the protection of Article 10.

As with any other type of state service, benefit or activity, the involvement of the state in public media must conform to the requirements of non-discrimination on the grounds of language. If the state controls, operates or finances any media, it should do so in a non-discriminatory fashion and the time and resources allocated should reflect the linguistic composition of its population.

Article 9(1) of the Framework Convention contains inter alia an undertaking to ensure that there is no discrimination in regards to the media. The parties shall ensure this right "within the framework of their legal systems". These words were inserted in order to respect constitutional provisions that may limit the extent to which a party can regulate access to the media.⁷⁴ In the area of "printed media",

⁷⁴ *Commentary on the Provisions of the Framework Convention* at par. 57.

Article 9(3), the parties shall not hinder the creation and use of this media by persons belonging to national minorities.

2.2.2 Broadcasting

A state is not allowed to control in any way a linguistic minority's efforts to establish a private radio or television station using the minority language and aimed at a minority audience. On the other hand in order to be able to transmit radio or television, one needs access to broadcasting frequencies. In most states these frequencies are considered public goods, and countries which permit private broadcasting require that a licence to broadcast be obtained from an administrative authority. Difficulties occur when the state, through this agent, decides who will be permitted to have access to these public airwaves. In *Informationsverein Lentia and Others v. Austria*, it was indicated that in exercising its general regulatory powers when allocating airwave frequencies, a state must observe its obligations under international legal instruments, which include Article 27. This means that a state must consider a linguistic minority's right to communicate with its members in its language, also via the airwaves.

The European Court has confirmed that broadcasting, like the press, is covered by Article 10 of the ECHR, guaranteeing freedom of expression.⁷⁵ For the most important media besides written publications, namely broadcasting, television and cinema, Article 10 states that they may be subjected to a licensing system. This is contained in paragraph 1, rather than being included, or merely left by implication, in paragraph 2, which specifies the various justifications for limitation of the right. This placement implies that broadcast licensing should not be considered an infringement of the right of expression at all.⁷⁶

In *Informationsverein Lentia and Others v. Austria* the European Court further clarified its view of the relationship between the third sentence of paragraph 1 and paragraph 2. The European Court held that;

“states are permitted to regulate by a licensing system the way in which broadcasting is organised in their territories, particularly in its technical aspects [...] Technical aspects are undeniably important, but the grant or refusal of a license may also be made conditional on other considerations, including such matters as the nature and objectives of a proposed station, its potential audience at national, regional or local level, the rights and needs of a specific audience and the obligations deriving from international legal instruments”.⁷⁷

⁷⁵ See for example *Groppera v. Switzerland*; and *Autronic v. Switzerland*.

⁷⁶ van Dijk and van Hoof 1998 p. 579; and Janis and Kay 2000 p. 206.

⁷⁷ *Informationsverein Lentia and Others v. Austria* at par. 32 of the judgement.

In *Informationverein Lentia and Others v. Austria* criteria such as the rights and the needs of audiences at various levels and International Law obligations are key factors to be considered in the licensing system. Factors such as geographic distribution and concentration of the speakers and others must be examined in order to determine whether a public authority's refusal to grant a licence is discriminatory or not. Another relevant consideration on this area would be the number of other private stations broadcasting in the same coverage area, and whether these sufficiently respond to the needs and preferences of the population.

Article 9(1) of the Framework Convention contains an undertaking to ensure that there is no discrimination in access to the media. The last paragraph of the article complements this undertaking by obliging the state parties to adopt adequate measures in order to facilitate this access. The measures envisaged by this paragraph could, for example, consist out of funding for minority broadcasting or for programme productions dealing with minority issues and/or offering a dialogue between groups, or of encouraging, subject to editorial independence, editors and broadcasters to allow national minorities access to their media. The expression "adequate measures" was used for the reasons given in the commentary on Article 4(2), the non-discrimination clause, which uses the same words.⁷⁸

Article 9(2) states that the first paragraph of the article shall not prevent parties from requiring the licensing of sound radio and television broadcasting, or cinema enterprises. The licensing should be non-discriminatory and be based on objective criteria. This paragraph is modelled on the third sentence of Article 10(1) of the ECHR. The inclusion of these requirements, which are not expressly mentioned in the third sentence of Article 10(1) of the ECHR, was considered important for an instrument designed to protect persons belonging to a national minority.

In the area of "printed media", Article 9(3), the Parties shall not hinder the creation and use of this media by persons belonging to national minorities. In the field of sound radio and broadcasting the Convention goes further by obliging the parties, in their legal framework, as far as possible, to grant persons belonging to national minorities the possibility of creating and using their own media. The first sentence of this paragraph, dealing with the printed media, contains an essential negative undertaking whereas the more flexibly worded second part of the paragraph emphasises a positive obligation on behalf of the state parties. The second part obligates the parties to in their legal framework granting the possibility for national minorities of creating and using their own radio and television broadcasting. This distinction reflects the relative scarcity of available

⁷⁸ *Ibid.* at par. 62.

frequencies and the allocation of these and the need for regulation in the latter field.⁷⁹

In the area of media, as well as in the case of education Article 19 of the Framework Convention undermines the significance of the rights laid down in the Convention.⁸⁰

Public authorities are required to act in a non-discriminatory fashion, and the refusal to grant broadcasting licences for private radio and television stations using a minority language could constitute discrimination on the basis of language. De Varennes argues that as with any other type of activity by public authorities, state allocation of airwave frequencies to radio or television stations that use exclusively a majority or state language, will tend to be more favourable towards individuals with greater fluency in this language and correspond more closely to their linguistic needs. In a country where public authorities favour exclusively the majority or state language, it means that the linguistic and cultural needs of speakers of non-official or minority language are qualitatively and quantitatively disregarded. Such a policy could be discriminatory. Especially when the number of speakers of a language is fairly large in an area, to refuse a private radio or television licence for broadcasting services in their language would appear unreasonable, since it “denies them a benefit or advantage that is available to others, namely the benefit of radio or television programmes in their own language”.⁸¹

Under Article 14 of the ECHR no discrimination is permitted in the granting of licences and in case of a state monopoly, the broadcasting time granted to a political party, trade union or other institution of a specific political, religious, philosophical or ethical character may not be disproportionate. For the assessment of whether discrimination or disproportion has occurred, all facets of the political, religious and social climate of the community concerned will have to be taken into account.⁸²

2.2.3 Summary

The involvement of the state in media must conform to Article 27 of the CCPR and its non-interference provision.

Broadcasting like the press is covered by Article 10 of the ECHR, guaranteeing freedom of expression.

⁷⁹ *Commentary on the Provisions of the Framework Convention* at par. 61.

⁸⁰ See p. 20 of the study.

⁸¹ de Varennes 1996 p. 229.

⁸² van Dijk and van Hoof 1998 p. 580.

The requirements of non-discrimination must be taken into consideration even in the case of media. In order to determine if a state is acting discriminatory in its distribution of broadcasting licences, factors such as concentration of speakers and number of private stations broadcasting in the same area must be taken into consideration.

Article 9(1) of the Framework Convention contains an undertaking to ensure that there is no discrimination in access to the media. The last paragraph of the article complements this undertaking by even obliging the state parties to adopt adequate measures in order to facilitate this access.

2.3 Public Sphere

2.3.1 Contact with Public Authorities and Institutions in General

Article 27 of the CCPR does not require the recognition of minority languages as state or court languages before public authorities.⁸³

In the ECHR there are no general regulations on the use of language in contact with public institutions or authorities. Only praxis can give some orientation in this field. In *Inhabitants of Leeuw-St. Pierre v. Belgium* the European Commission was asked to examine the matter of a group of Belgian citizens who had unsuccessfully requested administrative documents from their municipality in French. They claimed that the municipality's refusal to provide such document in French violated their freedom of expression under Article 10. The European Commission declared that the application was inadmissible because the ECHR does not expressly guarantee "linguistic freedom" as it relates to the right to use one's language of choice in relations with municipal authorities:

"It is clear that one has to distort the usual meaning of the passages [Articles 9 and 10] if one is to transform the right to express one's thought freely in the language of one's choice into a right to complete, and insist on the completion of, all administrative formalities in that language."⁸⁴

The European Commission proceeded to reject another application involving language and freedom of expression in *X v. Ireland*. The applicant was a civil servant entitled to children's allowance for each of his four children, provided he

⁸³ Nowak 1993 pp. 501-502.

⁸⁴ *Inhabitants of Leeuw-St. Pierre v. Belgium* at p. 338.

filled out a prescribed form. The form was entirely in Irish, which he, like the majority of Irish citizens, could apparently neither read nor write. He refused to comply with what he described as an “imposition” and a “language dictatorship”, despite a warning that he would lose the allowance if he did not comply. When he insisted on obtaining a form printed in English, he lost the allowance. The applicant maintained that the requirement to use Irish exclusively in these forms constituted a violation against his freedom of expression guaranteed under Article 10. The European Commission’s response was that the requirement to complete the form in the Irish language did not in any way interfere with the applicant’s freedom of expression and that the application was inadmissible.

In *Fryske Nasjonale Partij v. Netherlands*, the applicants submitted that they had been prevented from standing as candidates in elections of the First Chamber of the States General because they had submitted their registration for election in Friesian and not in Dutch. They asserted, *inter alia*, that this infringed their freedom of expression guaranteed under Article 10 of the ECHR. The European Commission once again indicated that freedom of expression and language preference might, in certain situations, be relevant when it stated that the applicants “failed to demonstrate that they were prevented from using the Friesian language for other purposes”.⁸⁵ This part of the application was rejected as being incompatible with the provisions of the ECHR.

In *Mathieu-Mohin and Clerfayt v. France*, the European Court reviewed the principles embodied in Article 3 of the First Protocol of the ECHR. The applicants had been elected respectively to the Belgian Senate and House of Representatives from the bilingual electoral district of Brussels, but also from an administrative district, which came under the Dutch-language Council in respect to certain matters. They had to submit to a test of eligibility for the Council consisting of a parliamentary oath in Dutch. The applicants, being French-speaking, took their oath in French instead and were denied the right to sit on the Council, despite the fact that their administrative district came under the Dutch-language Council in respect of important matters for their voters. This, they claimed, either violated Article 3 in the First Protocol of the Convention, or violated article 3 when read in conjunction with Article 14, the non-discrimination clause.

Article 3 of the First Protocol provides that states undertake “to hold elections by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of legislature”. The Court indicated that, as for the alleged violation of Article 3 taken alone, it is not an absolute right and contains implied limitations. According to the Court, the French-speaking electors involved do enjoy the right to vote and the right to stand for election on the same legal footing as Dutch-speaking electors. They are not deprived of their

⁸⁵ *Fryske Nasjonale Partij v. Netherlands* at p. 243.

right in Article 3, since the limitation is not disproportionate and the “free expression of the opinion of the people in the choice of legislature” is not threatened.⁸⁶

The Court then proceeded to the question of the alleged violation of Article 14 of the ECHR taken together with Article 3. Here it did not adopt the position that since language was not a part of the substantive right under Article 3 the applicants could not avail themselves of the non-discrimination provision. On the contrary, the Court came rather to the conclusion that Article 14 could be invoked, but that in the circumstances the measure adopted by the state was neither unreasonable nor disproportionate:

“The aim is to defuse the language disputes in the country by establishing more stable and decentralised organisation structures [...] In any consideration of the electoral system in issue, its general context must not be forgotten. The system does not appear unreasonable if regard is had to the intentions it reflects and to the respondent state’s margin of appreciation within the Belgian parliamentary system – a margin that is all the greater as the system is incomplete and provisional.”⁸⁷

Article 10 of the Framework Convention obliges the state parties to recognise that every person belonging to a national minority has the right to freely and without interference use his or her minority language, in private and in public, orally and in writing. “In public” means for instance in a public place, outside, or in the presence of other persons. The article does generally not concern any relations with public authorities,⁸⁸ but the second paragraph of the article states that under special circumstances the Parties shall ensure the conditions which would make it possible to use the minority language, as far as possible, in relations between persons belonging to national minorities and the administrative authorities. This should be arranged for, if criteria, already known from other articles under the Convention, are fulfilled. The duty only arises in “areas inhabited by persons belonging to national minorities traditionally or in substantial numbers” and if “those persons so request and where such a request corresponds to a real need”. Once the two conditions are met, the parties shall endeavour to ensure the use of the minority language in this area as far as possible. The existence of a “real need” is to be assessed by the state on the basis of objective criteria. The wording “as far as possible” indicates that various factors, in particular the financial resources of the party concerned, may be taken into consideration. The article is, as are many of the other articles of the Framework Convention, worded flexibly, leaving parties a wide measure of discretion. The provision does not cover all relations between individuals

⁸⁶ *Mathieu-Mohin and Clerfayt v. Belgium* at p. 25.

⁸⁷ *Ibid.*

⁸⁸ *Commentary on the Provisions of the Framework Convention* at par. 63.

belonging to national minorities and public authorities, but only extends to administrative authorities. The latter shall be broadly interpreted to include, for example, ombudsmen. The parties' obligations regarding the use of minority languages do not in any way affect the status of the official language or languages of the country.⁸⁹

2.3.2 Court Proceedings

Article 14(3)(f) of the CCPR provides for the right to use one's own language and free assistance of an interpreter in criminal trials. The article is only applicable when the person cannot understand or speak the language used in court. The right does not entitle an accused in criminal proceeding to express himself in his language of preference. If the accused is capable of expressing himself in the state language, Article 14 of CCPR does not require the state parties to make available the services of an interpreter. The right to an interpreter is not limited to situations where an individual has absolutely no knowledge of the language of proceedings. If the accused or the defence witnesses have difficulties in understanding, or in expressing themselves in the court language, an interpreter is required.

In 1990 the UN Committee considered the relationship between language and freedom of expression stated in Article 19 of the CCPR in *Dominique Guesdon v. France*. Guesdon submitted that Breton was his first language and that French courts had violated his freedom of expression, amongst other rights, when they rejected his request that he and witnesses on his behalf testify in Breton and his demand that they be heard through the assistance of an interpreter. The UN Committee rejected Guesdon's contention that he had been found guilty without having been heard because Guesdon was bilingual and chose not to speak in French, and was thus the "author" of his own misfortune. Furthermore, the UN Committee considered the freedom of expression argument inadmissible:

"As to the author's claim that he had been denied his freedom of expression, the Committee observed that the fact of not having been able to speak the language of his choice before the French courts raised no issues under Article 19, paragraph 2. The Committee therefor found that this aspect of the communication was inadmissible [...]"^{90 91}

In *Dominique Guesdon v. France* and *Yves Cadoret and Hervé Le Bihan v. France* the UN Committee responded that French law does not, as such, give everyone the right to speak his own language in court. Those unable to speak

⁸⁹ *Ibid.* at par. 64-66.

⁹⁰ Document A/45/40 (UN) at par. 7(2).

⁹¹ For the similar issue see also *M.K. v. France*; *T.K v. France*; and *Yves Cadoret and Hervé Le Bihan v. France*.

and understand French, are provided with the services of an interpreter. As this service would have been available to the authors, if they had required it, which they did not, there was neither a violation against the discrimination prohibition under Article 26 on the ground of their language.

In the ECHR the right to a fair hearing is stated in Article 6. It is to be interpreted in the same way as the right in the CCPR.⁹² It would be an extremely long and costly process to translate every single document and to have simultaneous translation on every occasion. This is why the European Court held that the requirements of Article 6 only go so far as to ensure what is required for the defence of an accused, in order for him to understand the nature of the charges being brought against him, in order for him to be able to properly appreciate the evidence being presented and the testimony of witnesses during the proceedings, and finally in order for him to effectively present his own evidence and testimony.⁹³ The European Court has also settled the extent of the right to be informed promptly of the nature and cause of an accusation in a language understood (ECHR Article 6 (3)(a)). Any document constituting an accusation within the meaning of Article 6 should be provided to the applicant in a language that he understands. The appropriate degree of interpretation will vary according to the complexity and seriousness of the case.⁹⁴

Article 10(3) of the Framework Convention gives every person belonging to a national minority the right to be informed promptly, in a language that he or she understands, of the reasons of the arrest and of the accusation against him. It is further prescribed, that everybody has the right to defend himself or herself in this language, if necessary with the free assistance of an interpreter. The paragraph is based on Article 5 and 6 of the ECHR and does not go beyond the safeguards on those articles.⁹⁵

2.3.3 Summary

Article 27 of the CCPR does not require the recognition of minority languages as official or court languages before public authorities.

In the ECHR there are no general regulations on the use of language in contact with public institutions or authorities. Through praxis, however, the European Commission has clearly pointed out that freedom of expression does not guarantee the right to use the language of one's choice in administrative affairs. Furthermore has been pointed out that language criterion in elections not necessarily constitutes discrimination.

⁹² See for example *Kamasinski v. Austria*; and *Isop v. Austria*.

⁹³ *Kamasinsky v. Austria* at par. 79 of the judgement.

⁹⁴ *Luedicke, Belkacem and Koç v. Germany*.

⁹⁵ *Commentary on the Provisions of the Framework Convention* at par. 67.

Article 10 of the Framework Convention contains regulations of the use of language in private and in public. Under certain circumstances the parties shall ensure the conditions which would make it possible to use the minority language in contact with administrative authorities.

Article 14(3) of the CCPR provides for the right to use one's own language and free assistance of an interpreter in criminal trials. The right does not entitle an accused to express himself in his language of preference. The article is applicable when the accused have difficulties in understand and speak the language used in court. The right to a fair hearing stated in Article 6 of the ECHR is to be interpreted in the same way as the article in the CCPR. The regulations in the Framework Convention are based on Article 5 and 6 in the ECHR.

2.4 Private Sphere

2.4.1 Private Sphere and Community with Others

An area of application of a minority's right to language is within various cultural, social and even political organisations. It is essential for persons belonging to minorities to associate with each other in order to be able to preserve and develop their language, ethnic and cultural identity. This can be done either in private meetings or by establishing organisations with particular goals. Activities like these are protected under freedom of association and freedom of assembly. In the ECHR these rights are to be found in Article 11. The article may imply for the parties certain positive obligations to protect the freedoms against violations, which do not emanate from the state. Under the ECHR, the possibility of such positive obligations has been recognised by the European Court.⁹⁶ The article corresponds with the provisions in Article 21 and 22 of the CCPR and in Article 7 of the Framework Convention.

Article 27 of the CCPR obligates the State parties not to deny persons belonging to minorities "in community with the other members of the group, [...] to use their own language."

The right to private life, protected under Article 17 of the CCPR and Article 8 of the ECHR, can also be used in this area.

⁹⁶ *Commentary on the Provisions of the Framework Convention* at par. 51 and 52.

2.4.2 Topography

Instead of naming a person, topography involves the naming of places, and could be a source of conflict.

Topography is dealt with somewhat differently than a personal name, in that a distinction must constantly be respected between the private use of place-names in a minority language, and official topography in state areas and activities. Whilst the former, in conformity with Article 27, would prohibit the state from interfering in the individual use of topography in a minority language for non-state functions, this would have no relevance in respect to the state's use of place-names. The state is entitled to require the use of the place-names it has chosen in respect to official activities or areas. But if, according to de Varennes, a state tried to forbid individuals from using a place-name in their minority language on their own signs or posters, etc., this would likely entail a violation of Article 27.⁹⁷

Article 11(3) of the Framework Convention deals with the question of topography and minority languages. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the parties shall endeavour to "display traditional local names, street names and other topographical indications intended for the public also in the minority language". In implementing this principle the states are entitled to take due account of the specific circumstances and the framework of their legal systems. The provision does not imply any official recognition of local names in the minority language.⁹⁸

2.4.3 Personal Names

A person's name does not simply involve an administrative or bureaucratic task. A name could also be an important marker that a person belongs to a community and be a part of the self-identification.

De Varennes is of the opinion that any state restriction on the use of a person's name in a minority language is a violation against the spirit and explicit wording of Article 27. States which have ratified the CCPR, and which have not entered into a reservation regarding the application of Article 27, would be expected to permit individuals the continued use of their names in the language of their community.⁹⁹

The issue of one's family name falls within the scope of private and family life, protected under Article 8 of the ECHR. The article does not contain any explicit

⁹⁷ de Varennes 1966 p.162.

⁹⁸ *Commentary on the Provisions of the Framework Convention* at par. 70.

⁹⁹ de Varennes 1996 pp. 161-162.

reference to names, but the European Court after have being confronted with the issue ruled that since it constitutes a means of personal identification and a link to a family, an individual's name does concern his or her private and family life. The fact that there may exist a public interest in regulating the use of names is not sufficient to remise the question of a person's name from the scope of Article 8 and the right to private and family life, as the right has been constructed as including, to a certain degree, the right to establish relationships with others.¹⁰⁰ Nevertheless in *Stjerna v. Finland* the European Court held that the contracting states possess a broad margin of appreciation concerning the roles with regard to the change of names.¹⁰¹ But there are limits even on these roles. In *Burghartz v. Switzerland* it was held that the Swiss Civil Code's provisions on names of married persons constituted a violation of Article 14 in conjunction with Article 8. The applicant wished to use, as his surname, a hyphenated name, consisting of his and his wife's surnames. The code allowed for married couples to use either husband's or wife's name as the family name, but only allowed hyphenated names to a wife who wished to add her surname to the family name. Since the choice of the names was more restricted for husbands than for wives, the Swiss law represented discrimination based on sex in the enjoyment of Article 8 rights and that no reasonable justification for the difference had been shown. It further held that the injury was not mitigated by the fact that the husband could use the name he preferred informally, since only the legal name could be used "in a person's official papers".¹⁰²

In *Stjerna v. Finland* Finnish authorities had refused to permit a name to be changed. Even if the state parties possess a broad margin of appreciation in the field of changing name, the European Court pointed out that there is a distinction between a situation in which the state requires a name to be changed and in which the state refuses to permit a name to be changed. The Court held that;

"the refusal of the Finnish authorities to allow the applicant to adopt a specific new surname cannot necessarily be considered an interference in the exercise of his right to respect for his private life, as would have been, for example, an obligation to change surname".¹⁰³

The right for every person belonging to a national minority to use his or her surname and first names are laid down in Article 11(1) of the Framework Convention. The article also obliges the state parties to official recognition of the names, however, "according to modalities providing for in their legal system".

¹⁰⁰ *Burghartz v. Switzerland* at par. 24 of the judgement; and *Stjerna v. Finland* at par. 37 of the judgement.

¹⁰¹ *Stjerna v. Finland* at par. 39 of the judgement.

¹⁰² *Burghartz v. Switzerland* at par. 26-28 of the judgement.

¹⁰³ *Stjerna v. Finland* at par. 38 of the judgement.

For example, parties may use the alphabet of their official language to write a name in its phonetic form.¹⁰⁴

2.4.4 Signs, Announcements and Other Notices

Prohibitions from using signs, announcements or notices in a minority language do neither confirm to the letter nor to the spirit of Article 27. This would in effect deny persons belonging to a linguistic minority the right to use, in community with the other members of their group, their language when promoting or announcing publicly the activities of their institutions.¹⁰⁵

Also Article 11(2) of the Framework Convention give persons belonging to national minorities the right to “display in his or her minority language signs, inscriptions and other information of a private nature visible to the public”. The expression “of a private nature” refers to all that is not official.¹⁰⁶

In *Ballantyne, Davidson and McIntyre v. Canada*, the authors were English-speaking residents of the Province of Quebec who claimed that the prohibition against using any language other than French on outdoor commercial signs or in a firm’s name infringed upon their freedom of expression, guaranteed by Article 19 of the CCPR.

The government of Quebec argued that freedom of expression protected by Article 19 does not include commercial publicity, but is limited to matters involving political, cultural and artistic expression. It also maintained that even if commercial publicity were encompassed in freedom of expression, it did not include an individual’s absolute right to choose the language of commercial signs. Finally, the government argued that even if the freedom of expression included freedom in the choice of language in commercial activities, the prohibition contained in the *Charte de la langue française* was reasonable given the importance of protecting the French language and culture in Quebec.

The UN Committee rejected Quebec’s attempts to restrict the author’s freedom of expression. The Committee stated that Article 19(2) of the CCPR applies not only to ideas and subjective opinions, which can be transmitted to others, but also to any news or information, any expression, any commercial publicity or signs, and to any work of art. In other words, the committee rejected the attempt at limiting freedom of expression to a narrow field of activity such as political, cultural or artistic expression. In responds to the government’s content that its provisions were necessary and reasonable in order to protect the French language in the region, the UN Committee held that Article 19 only permits

¹⁰⁴ *Commentary on the Provisions of the Framework Convention* at par. 68.

¹⁰⁵ de Varennes 1996 p. 159.

¹⁰⁶ *Commentary on the Provisions of the Framework Convention* at par. 69.

restrictions on freedom of expression which are provided by law and necessary either to protect the reputations of others, or to protect national security, public order, health or morals.

The UN Committee recognised that whilst a state may choose one or more official languages, it may not simply ban the use of non-official languages, at least as it relates to non-governmental services or activities. In essence the UN Committee recognised that in an entirely non-governmental realm, any attempt at restricting an individual's language choice clearly violates that individual's freedom of expression. In *Ballantyne, Davidson and McIntyre v. Canada* the issue of discrimination was just briefly mentioned. Having essentially settled the matter by relying upon an infringement of the author's freedom of expression, the UN Committee nevertheless added that in its view, since the law applied to all business people in the province, be they English-speaking or French-speaking, there could be no discrimination.¹⁰⁷

2.4.5 Use of Language with Members of Transborder Communities

The right to maintain contacts and use one's own language with individuals who do not reside within the borders of a state can be of major importance to minorities separated by a border in that it is a potential source of support and inspiration for its culture and linguistic activities.¹⁰⁸

With respect to the form of communication, the scope of application of Article 19 of the CCPR as well as Article 10 of the ECHR, the right to freedom of expression is guaranteed regardless of frontiers.¹⁰⁹

Article 17 of the Framework Convention obliges the parties not to "interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers". The article contains two undertakings that are important to the maintenance and development of the culture of these persons and to the preservation of their identity.¹¹⁰

2.4.6 Summary

An important area of application of a minority's right to its language is in the private sphere together with other persons of their group. The provisions

¹⁰⁷ de Varennes holds this for contradicting the UN Committee's own definition of discrimination and further comments the strangeness in mentioning the non-discrimination possibility so briefly (de Varennes 1996 p. 71).

¹⁰⁸ Malinverni 1991 p. 16.

¹⁰⁹ Nowak 1993 p. 342.

¹¹⁰ *Commentary on the Provisions of the Framework Convention* at par. 83 and 84

protecting freedom of assembly, freedom of association and the right to private life are useful here.

Naming of places can also fall under the private sphere. Article 27 of the CCPR would prohibit the state from interfering in the individual use of topography in a minority language for non-state functions. According to Article 11(3) of the Framework Convention the state should, in certain cases, display traditional local names for the public also in the minority language.

Any state restriction on the use of a person's name in a minority language constitutes a violation against Article 27. The issue of one's family name also falls within the scope of private and family life, protected under Article 9 of the ECHR. In the Framework Convention regulations on personal names are to be found in Article 11(1).

Freedom to expression does not only refer to the field of activity such as political, cultural or artistic expression and to ideas and subjective opinions that can be transmitted to others. In *Ballantyne, Davidson and McIntyre v. Canada* it was stated that Article 19 of the CCPR applies to any news or information, any expression, any commercial publicity or signs, and to any work of art. The case also shows that government can validly seek to protect the state language, but that such a legitimate objective could not be invoked in order to ban the use of non-official languages in private affairs, although these comments were not specifically made in the context of the application of the principle of non-discrimination.

Further do prohibitions from using signs, announcements or notices in a minority language constitute violations against Article 27 of the CCPR and Article 11(2) of the Framework Convention.

The right to freedom of expression, stated in Article 19 of the CCPR and Article 10 of the ECHR is guaranteed regardless of frontiers. Article 17 of the Framework Convention ensures the right for national minorities to establish contacts with transborder communities.

3 The Latvian State Language Law and Its Conformity with International Human Rights Standards

The State Language Law was adopted by the Saeima, on 9 December 1999. On 22 August of the same year the Government adopted a couple of regulations that in conjunction with the law regulates the use of state language in Latvia. The law and regulations came in to force on 1 September 2000.¹¹¹ The law states that the Latvian language is the state language in the Republic of Latvia.¹¹² Everyone has the right to “file applications and communicate in the state language at agencies, voluntary and religious organisations, enterprises (or companies)”.¹¹³ Any other language used in Latvia, except the Liv language, that is the language of the indigenous population, shall be regarded, within the meaning of the law, as a foreign language.¹¹⁴ The purpose of the law is to ensure;

- “1)the preservation, protection and development of the Latvian language;
- 2) the preservation of the cultural and historical heritage of the Latvian nation;
- 3) the right to use the Latvian language freely in any sphere of life in the whole territory of Latvia;
- 4) the integration of national minorities into Latvian society while respecting their right to use their mother tongue or any other language;
- 5) the increase of the influence of the Latvian language in the cultural environment of Latvia by promoting a faster integration of society.”¹¹⁵

This is all expressed in the first part of the law. Article 6 and the articles thereafter prescribe the ways in which the purposes of the law shall become emasculated. In the following chapter the relevant parts of the articles of the State Language Law, the governmental regulations and other pertinent regulation connected to the law, which could possibly constitute violations against human rights standards, will be presented and compared to those standards

¹¹¹ The original name of the State Language Law is *Valsts valodas likums*. The study is based on an unofficial translation of the law from Latvian into English. For the whole law see Supplement.

¹¹² *The State Language Law* at Art. 3(1).

¹¹³ *Ibid.* at Art. 3(2).

¹¹⁴ *Ibid.* at Art. 5.

¹¹⁵ *Ibid.* at Art. 1.

3.1 Public and Private Sphere (Article 6-21)

3.1.1 Contents of the Articles

3.1.1.1 Article 6

Article 6 provides that “employees of state and municipal institutions, courts and agencies belonging to the judicial system, state and municipal enterprises, as well as employees in companies in which the state or a municipality holds the largest share of the capital, must know and use the state language to the extent necessary for the performance of their professional”. This is also prescribed for employees of private institutions, organisations, and enterprises as well as for self-employed persons if their activities relate to “legitimate public interests”. Legitimate public interest constitutes the areas of public safety, health, morals, health care, protection of consumer rights and labour rights, workplace safety and public administrative supervision. Other persons, that “perform certain public functions” and foreign specialists and foreign members, who work in Latvia have to use and know the language “to the extent necessary for the performance of their functions” alternative “their professional and employment duties”. For the last category if they do not comply with the requests they must ensure translation into the state language.

The article forwards to the Cabinet of Ministers to prescribe the extent of the knowledge of the state language and procedures for testing fluency in the language. The regulations from the Cabinet contain stipulations about the proficiency degree in the language that is required for the performance of the different professional and positional duties that are listed in Article 6. Stipulations about the procedure of the language proficiency testing are also to be found here.¹¹⁶ According to the regulations the state language proficiency degree is determined considering the peculiarities of the regulations follows an appendix with the specific level and degree of the language proficiency for each and every profession and position in the public sphere or companies in which the state holds the largest share of capital. In private companies, organisations etc, the employer determines which level and degree is necessary for the employees to fulfil the duties of their professions or positions.¹¹⁷ In amendments to the regulations passed by the Cabinet of Ministers, the government listed those professions in the private sector subject to Latvian language regulation. The state language testing commissions are established by the Minister of Justice, and work in accordance

¹¹⁶ *Regulations on the Proficiency Degree in the State Language Required for the Performance of the Professional and Positional Duties and on the Procedure of Language Proficiency Tests*, Regulation 296.

¹¹⁷ *Ibid.* at par. 5.

with the statutes confirmed by the Minister of Justice.¹¹⁸ The scope of proficiency in the language is divided in 3 proficiency levels, each with two sub degrees.¹¹⁹ After passing the test, the proficiency in the state language is confirmed by a “state language proficiency certificate” of respective degree.¹²⁰ The regulations do not apply to persons who have obtained primary, secondary or higher education in Latvian or have received a certificate issued by the Ministry of Education and Science of the Republic of Latvia on passing the centralised examinations.¹²¹

3.1.1.2 Article 7

Article 7 prescribes that all formal meetings and other business meetings held by any of the institutions enumerated in the first category in Article 6 are to be in the state language. If a foreign language is used during the meeting, the organiser shall ensure the translation into the state language. In all other cases where a foreign language is used during sittings and other business meetings, the organiser shall ensure translation into the state language, if such is required by even one participant at the meeting.

3.1.1.3 Article 8 and 10

According to Article 8 the state language shall be used for all documents and record keeping in the first three mentioned categories in Article 6. Only correspondence and other kinds of communication with foreign states may take place in a foreign language. Statistical reports, annual accounts, accounting documents and other documents which are to be submitted to state or local government institutions on the basis of laws or other regulatory enactment, shall be drawn up in the state language.

In Article 10 is stated that documents drawn up in the state language shall ensure acceptance and examination by all institutions, organisations and enterprises. Institutions mentioned in the first category in Article 6 should only accept and examine documents if they are in the state language. Documents from persons in a foreign language shall be accepted if a translation, “verified according to the procedure prescribed by the Cabinet of Ministers” or made by a certified translator, is attached to the document. Documents from foreign countries may be accepted and examined without translation. Neither of the provisions of this article are applicable in a case of emergency.

3.1.1.4 Article 11

Events organised by the first category of Article 6 shall take place in the state language. If a foreign language is used, the organiser shall ensure translation into the state language. Taking into account the legitimate interests of the public, the

¹¹⁸ *Ibid.* at par. 9.

¹¹⁹ *Ibid.* at par. 11.

¹²⁰ *Ibid.* at par. 8.

¹²¹ *Ibid.* at par. 2.

Cabinet can determine if a translation shall be obtained also in other events, organised by private institutions, organisations, enterprises etc. Also versatile and complete information about the event has to be translated into the state language.¹²² In cases determined by the Cabinet, the State Language Centre may exempt the organiser from such a requirement. These cases are when the participants of the international event have agreed on other working languages, national philology organisations organise scientific and cultural educational events or when open-air events take place, where it is technically impossible to provide interpretation.¹²³ The use of language in meetings, processions and pickets is provided for by the Law on Meetings, Pickets and Mass Rallies. For linguistic minorities it is important that Article 19 of the Law guarantees a freedom of language. A minority when expressing its view on a particular question is not obliged to use the state language but is free to choose whether it wants to restrict itself to its language or to decide to inform also a wider society which does not understand a particular language of the minority.

3.1.1.5 Article 20

The text on stamps and seals, as well as the letterheads of state and municipal institutions and other institutions enumerated in Article 6 shall be only in the state language, i.e. even private institutions if they perform certain public function are included. This provision also includes private institutions if they perform certain public function. If a foreign language is used along with the state language, the text in the state language shall be in the foreground and shall not be smaller in size or less complete in content than the text in the foreign language. According to the regulations made by the Cabinet of Ministers in cases concerning stamps, seals and letterhead, the Foreign Ministry in foreign affairs can use a foreign language in correspondence with international organisations operating in Latvia and in correspondence with foreign addresses.¹²⁴

3.1.1.6 Article 21

Information intended for the public provided by the institutions enumerated in Article 6 shall be only in the state language. Information on labels and markings of goods manufactured in Latvia, user instructions on the manufactured product and on its packaging shall be in the state language. These requirements do not apply to goods meant for export. If the markings, user instruction etc, on imported goods are in a foreign language, a translation shall be made and attached to every imported item. Information on signs, billboards, posters, placards, announcements and any other notices shall be in the state language if it concerns legitimate public interests and is meant to inform the public in places accessible to the public. In cases where a foreign language is used, the text in the state language shall be in

¹²² *Regulations on Ensuring Interpretation in Events*, Regulation 288, at par. 2.

¹²³ *Ibid.* at par. 3.

¹²⁴ *Regulations on the Usage of Foreign Languages in the Text of Stamps, Seals and Letterheads*, Regulation 286.

the foreground and shall not be smaller in size or less complete in content than the text in the foreign language. According to the regulations made by the Cabinet the institutions in Article 6 might use foreign language, along with the state language, if the information concerns international tourism, international events, security considerations, extraordinary situations and in cases of epidemics or dangerous infectious diseases. The persons enumerated in the third category of Article 6, i.e. even employees of private institutions, might also use a foreign language about their activities, in statistical, sociological and medical surveys and upon a person's request to inform him or her. If information in a foreign language is published in a brochure, booklet or leaflet the information concerning public interest shall also be published in the state language.¹²⁵

3.1.2 Conformity with Human Rights Standards

In Latvia, Latvian is the State Language. This must convey some special "advantages" for this language. If the state could not claim that this language is spoken generally in for example public institutions and by the employees working in the public sector, what would then be the meaning of having a state language? Which country does not expect the state language to be spoken in its public institutions? Demanding knowledge of the state language is not an unreasonable claim. The difference is that in other countries, law may not prescribe this demand. An information report on Latvia made by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (the Monitoring Committee), endorses this position. In 1998 a group of experts from the Committee, visited Riga in order to consider, jointly with representatives of the Saeima and the government, the draft of the State Language Law. The experts drew the conclusion that the legitimate interest of Latvia in protecting and promoting the Latvian language ought to be fully recognised. They drew attention to continued international support for Latvia in its efforts, and to the advisability of the adoption of a general strategy in the language sphere of which legislation was an essential component.¹²⁶ In a press statement the OSCE High Commissioner on National Minorities Max van der Stoep was also, in general, pleased with the law and stated that the regulations were "essentially in conformity with Latvia's international obligations and commitments".¹²⁷ Nevertheless, there can be much criticism made against the State Language Law.

3.1.2.1 Private Life and Freedom of Expression

One of the main problems with the law is the lack of distinction between the public and the private sphere. For example the amendment with the listed

¹²⁵ *Usage of Languages in Information*, Regulation 292.

¹²⁶ *Honouring of Obligations and Commitments by Latvia* at division V. under part c), *Law on the State Language*.

¹²⁷ Press statement on 31 August 2000.

professions in the private sector, which also falls under the language regulations, contains 34 categories of professions. The list includes various health care professionals, guards and security-related professions, as well as notaries and sworn advocates. Most of the listed professions are proportionate and falling within a legitimate public interest (public health, public safety, public order),¹²⁸ but one profession on the list is difficult to justify as falling within a legitimate public interest – that of taxi driver. The law in general goes too far in its language regulations in the private sector. Its interference in this area could constitute violation against many principles in International Law.

In its information report the Monitoring Committee of the European Council points out that many provisions of the law do not take into sufficient account the distinction between the public sector and the private sector so that there is a “danger of conflicting with international legal standards in respect of human rights, particularly the freedom of expression”.¹²⁹ They recommend that the law be limited exclusively and explicitly to the public sector, with no reference being made at all to the private sector. Furthermore they see some problems with the more detailed regulations of the law, left to the Cabinet of Ministers to decide. It generates a lack of legal certainty, which is “difficult to reconcile with the requirement for the transparency and accessibility of regulations in this field”. Less scope should be left in the law for the implementing decrees. This is also a criticism delivered by the High Commissioner of National Minorities. As a number of the most important provisions are left for decision by the executive branch, the law leaves a large margin of legal uncertainty. Special references are inter alia made to the language proficiency required also in the private sector (Article 6) and the provided translation into Latvian in public events organised even by non-state agencies (Article 11). The High Commissioner is further concerned about Latvia’s anticipated ratification of the Framework Convention and the possible violations articles like these, interfering in the private life, will constitute against the Convention.¹³⁰

As described above, the UN Committee in *Ballantyne, Davidson and McIntyre v. Canada* recognised that whilst a state may choose one or more official languages, it may not simply ban the use of non-official languages, at least when it relates to non-governmental services or activities. In Latvia other languages than Latvian are not “banned”, but it is difficult using other languages in the public area.

The provision to use the state language even by for example employees of private institutions, organisations, and enterprises as well as for self-employed persons and even in events organised by private organisations could be a violation against

¹²⁸ See letter from Mr van der Stoep, OSCE High Commissioner on National Minorities, to Mr Dz Abikis, Chairman of the Saeima Committee on Education, Culture and Science, 7 September 1998.

¹²⁹ *Honouring of Obligations and Commitments by Latvia* at division V. under part c), *Law on the State Language*.

¹³⁰ Press statement on 31 August 2000.

Article 19 of the CCPR and Article 10 of the ECHR, concerning freedom of expression. The provisions to use the state language in the private sphere, could also constitute violations of the non-interference principle in Article 27 of the CCPR and right to private life in Article 17 of the CCPR and Article 8 of the ECHR.

3.1.2.2 Freedom of Association

The regulations stipulated in Articles 6–21 of the State Language Law could further be questionable in the view of freedom of association and the principle of non-interference. In accordance with Article 102 of the Latvian Constitution everyone has the right to form and join associations, political parties and other NGO:s. Article 5 of the law about cultural autonomy particularly refers to the right which is guaranteed to minorities to establish national and cultural societies and associations.¹³¹ Moreover, the article imposes an obligation on the state to promote activities and provide for financial support to such organisations. This is good, but in their activities the NGO:s have to pay attention to language provisions. Article 2(3) of the State Language Law determines that the law does not regulate use of languages in inter alia unofficial communications of the inhabitants of Latvia and in internal communications of national and ethnic groups. Nevertheless, as soon as these groups or NGO:s communicate with state or other public bodies or the NGO:s perform public functions they must use the state language to the extent necessary for carrying out the particular functions. Article 10(1) of the State Language Law guarantees that any institution or company accepts submissions in the state language. It follows that there is a possibility, but not guaranteed as a right, to enter a submission in language other than Latvian. In turn Article 10(2) determines that submissions to state, judicial or municipal institutions will be accepted only in the state language, unless a submission in a foreign language is supplemented by translation which is confirmed by notary (Article 10(3)). Maybe this is not directly violating the right to freedom of association, but it limits and interferes the work of these organisations.

3.1.2.3 Principle of Non-discrimination

The articles also need to be discussed in terms of the principle of non-discrimination. The provisions set by the articles applies to all people in Latvia, without distinctions. Direct discrimination is thereby excluded. Nevertheless, if the provisions disproportionately affect certain groups they are indirectly discriminating these groups. There is no doubt that the consequences of these articles affect all those persons in Latvia, not mastering the Latvian language. The question remains if the regulations are proportional.

¹³¹ *Law on Free Development and Right to Cultural Autonomy of National and Ethnic Groups of Latvia.*

For example, numerous problems have become apparent in implementing the provision that state and municipal institutions may receive documents only in Latvian or with a notarised translation. The mail board of the Riga City Council does not register letters in Russian or even send them back with request to write in the state language. Heads of the Council's committees can consider applications or complaints written in foreign languages, but in this case they must register these letters themselves. Letters written in English, German or French are translated by the Council's translators. Yet, however, there are no Russian interpreters among the Council's staff.¹³² In Riga 44 % of the residents are ethnic Russians and even more people indicate Russian as their native language.¹³³ One solution in this field has been found in Daugavpils, the second largest city in Latvia where 55 % of the residents are ethnic Russians and only 16 % are ethnic Latvians.¹³⁴ The City Council hires a full-time translator to help the residents of the city to translate their documents being handed in to the Council from Russian into Latvian. Only those residents, whose income does not exceed a minimum established by the City Council, are eligible for this free service.¹³⁵ As the translator's services are quite expensive in Latvia, especially for the residents of Latgale, the poorest region (Daugavpils is considered as a capital city of Latgale), it is a very valuable service to assist residents in preparing documents in Latvian. Regulations like these can hardly be classified as proportionate. In regions where the population overwhelmingly constitutes of Russian-speaking persons, it becomes too much work to approve documents only in Latvian. The provision to accept documents in Latvian is of course self-evident, but to reject documents in Russian, in regions where the demographic situation is similar, is disproportionate and could constitute discrimination.

Article 10(2) of the Framework Convention supports the possibility for Russian-speakers in these regions to be able to communicate with administrative authorities in their language.¹³⁶

Another questionable provision in the light of non-discrimination is the obligation to always supply public information in Latvian even if the information is of a private nature. This provision alone and in conjunction with the obligation to

¹³² The leading Latvian-language daily *Diena*, on 12 May 2001.

¹³³ Data of the Central Statistical Bureau of Latvia at www.csb.lv/Pres/census6.htm.

¹³⁴ *Ibid.*

¹³⁵ *Minority Issues in Latvia*, No. 21.

¹³⁶ The article also provides for establish of ombudsmen. The working group established by the President's Office has completed elaboration of the conception of the Ombudsman institution in Latvia. The conception aims at creating the Ombudsman institution on the basis of the existing National Human Rights Office, which already fulfils many functions of an Ombudsman. It is suggested to create five Ombudsman positions in Latvia: Ombudsman on the General Human Rights, Ombudsman on the Rights of the Children, Ombudsman on Municipalities, Ombudsman on Justice, Interior and Military Affairs and Ombudsman on the Procedure Rights. Unfortunately, despite more than 40% of Latvia's residents belong to national minorities, the Conception envisages neither the Ombudsman on National Minorities nor the Ombudsman on Non-discrimination (*Minority Issues in Latvia*, No. 28).

attach a *certified* translation in Latvian if the text is in another language, constitutes possible violations against the non-discrimination principle.

The chairman of the Latvian Youth Club (minority youth NGO) was fined for “incorrect usage of the state language”. The Latvian Youth Club had displayed information publicly about its activities aimed at fighting crime at community level, and calling all residents of Latvia to engage in its efforts to stop drugs proliferation and street crime. The text originally written in Russian was provided with a Latvian translation, according to the language legislation of Latvia currently in force. As professional translation is so expensive, members of the NGO translated the information (as the NGO leaders claimed, by those of Latvian ethnic origin). The State Language Inspection held expertise of the text, and experts from the Latvian Language Institute found more than 10 grammar and style mistakes in the translation (one A4 format page). After the State Language Inspection had received the expert’s conclusions, it decided to fine the chairman of the NGO for incorrect translation. Sum of the fine was 100 Ls (approximately 170 US\$), the highest fine provided by law for “incorrect usage of the state language”.¹³⁷ This can only with difficulty be classified as reasonable and proportional. Is it also considered an incorrect usage of the state language if a person of Latvian origin makes grammar and style mistakes when he or she writes a document in Latvian?

According to current legislation in Latvia every deputy candidate, who has not graduated from a school with instruction conducted in the Latvian language, must present his or her valid state language proficiency certificate of the highest (third) knowledge level to the electoral commission in order to be nominated as candidate for election.¹³⁸ The language requirements for deputy candidates will be subject for the European Court. Mrs. Podkolzina, a resident of Daugavpils was a deputy candidate from the People's Harmony Party (the pro-minority coalition “For Human Rights in United Latvia”) at the parliamentary elections held in October 1998. On August 21 1998 the Central Electoral Commission removed Mrs. Podkolzina from the electoral list on the basis of insufficient state language proficiency. This decision was taken after the State Language Centre issued the reference that Podkolzina’s state language proficiency did not correspond to the highest level of the state language proficiency, based on the results of language examination held by a state language inspector on August 7, 1998, despite Mrs. Podkolzina did possess a required valid state language proficiency certificate of the highest level. On August 31, 1998 the Riga Regional Court dismissed the complaint of the People’s Harmony Party on Podkolzina’s case. This decision was ultimate and came into force as from the date of its pronouncement. According to the views of Mrs. Podkolzina and of the member of the Latvian Human Rights Committee Ilga Ozisha who represents the plaintiff,

¹³⁷ *Minority Issues in Latvia*, No. 18.

¹³⁸ *Election Law on City and Town Councils, District Councils and Pagasts Councils* at Art. 9(7); and *Saeima Election Law* at Art. 5(7).

this case makes a violation of Article 3 of the First Protocol to the ECHR. Besides, it would also constitute discrimination on the basis of language in respect of the subjective right to stand for election (article 14 of the ECHR). The application made by Mrs. Podkoczina has as the first Latvian application ever, been declared admissible by the European Court.¹³⁹

Similar decisions taken before municipal elections in 1997 and parliamentary elections in 1998 have been contested by the candidates who had been removed from the candidates' lists on the same grounds. One individual complaint on violation of the right to be elected and discrimination on the basis of language is now considered by the UN Committee under the Optional Protocol to the CCPR. The decision on admissibility is expected during 2001.¹⁴⁰

Although no legal acts determine language requirements for the persons already elected to municipals councils, the State Language Centre even after the elections have been held, continues to control the state language proficiency of municipal deputies belonging to national minorities.¹⁴¹

3.1.2.4 Uncertainty in Legislation

The Monitoring Committee in its information report also criticised the formation of the language law and uncertainty in its wording. They recommended a preamble or explanatory memorandum to be included in the law. This is important to a proper understanding of the law and to ease the interpretation of the provisions in it. They also asked for less scope to be left for implementing decrees.¹⁴² This opinion they share with the High Commissioner on National Minorities.¹⁴³

For example a member of the Saeima accepted and considered by substance a written complaint of his elector, despite the fact that this complaint was written in Russian. Article 10(2) of the law explicitly prohibits this kind of actions. In a letter to the Director of the State Language Centre the parliamentarian asked to evaluate his action, and to punish him if the State Language Law was indeed violated. He wrote that the action was based on Article 104 of the Latvian Constitution, which stipulates that every person has the right to submit applications to the state and municipal institutions and to receive an answer. The Director of the Centre answered that the Centre was not competent to give legal evaluation of the case, but that however, in her personal view, it was not in breach

¹³⁹ *Minority Issues in Latvia*, No. 26.

¹⁴⁰ *Minority Issues in Latvia*, No. 24.

¹⁴¹ The Russian-language daily "Vesti Segodnya" on 11 April 2001.

¹⁴² *Honouring of Obligations and Commitments by Latvia* at division V. under part c), *Law on the State Language*.

¹⁴³ Press statement on 31 August 2000.

with the provision of the Language Law.¹⁴⁴ It remains unclear how this provision of the law should be interpreted and applied in practice in light of this reply.¹⁴⁵

The Monitoring Committee as well as the High Commissioner are also critical to the penalty and legal protection system that are not specified in the law, but to be found in special legislation.¹⁴⁶ This applies to both elections to the Saeima and municipal.

3.2 Court Proceedings (Article 13)

3.2.1 Contents of the Article

Court proceedings shall take place in the state language. The right to use a foreign language in court shall be determined by laws regulating the judicial system and court procedure.

According to Article 16 of the Criminal Procedure Code, the general rule is that the procedure should be in the state language. If prosecutor and other participants of the procedure agree, it can also be in a foreign language. If the procedure is held in Latvian language, the prosecuted has the right to interpreter. Documents can also be translated. In Article 13 of the Civil Procedure Code the general rule is again that the procedure should be in Latvian and the participants have the right to interpreter if they do not know the Latvian language. Separate procedures can also be conducted in different language if the parts agree. The second paragraph of the article states that documents in other language can be presented together with translation certified by a notary.

3.2.2 Conformity with Human Rights Standards

The Latvian legislation conforms to the regulations in the CCPR, ECHR and Framework Convention. It even goes further in offering the possibility to conduct the procedure in other languages, which in reality often is made use of. As almost

¹⁴⁴ *Minority Issues in Latvia*, No. 23.

¹⁴⁵ There is an Information Centre on Linguistic Legislation that collects data on practical implementation of the State Language Law and the governmental regulations. The Centre offers free consultations about the content of the law, corresponding normative acts and the linguistic rights of Latvia's residents. If the legislation is unclear a centre like this can of course not afford much information in intricate problems like this. Anyway it is a commendable instrument and help for the residents in questions concerning language legislation.

¹⁴⁶ *Honouring of Obligations and Commitments by Latvia* at division V. under part c), *Law on the State Language*; and press statement on 31 August 2000.

all judges speak Russian this opportunity in many cases simplifies and makes the court proceedings much more efficient.¹⁴⁷

The problems arise when discussing the document procedure. In year 2000 around 12 000 petitions, complaints and requests were sent from Central Prison prisoners, of those only 1/3 was in Latvian. Around 2/3 of Latvia's prisoners are Russian-speaking and the state does not provide free language training or translation services for them. The courts, the Department of Citizenship and Migration Affairs and other official bodies systematically return correspondence to prisoners who write letters in Russian.¹⁴⁸ According to the current legislation, state and municipal officials is obliged to use the state language when communicating with an individual. Even if both sides would agree on another language it is prohibited.

The National Human Rights Office (NHRO) notes that the regulation of national legislation can influence upon person's free access to the court, especially taking into account high prices of translations and service of notaries. It refers to Article 6 of the ECHR and some articles of the Framework Convention and makes a conclusion that the state and municipal institutions, as well as courts, should accept documents about violation of rights in Russian from persons, who cannot produce translation into Latvian.¹⁴⁹

3.3 Topography and Names (Article 18-19)

3.3.1 Contents of the Articles

3.3.1.1 Article 18

In Latvia place names, names of institutions, non-governmental organisations, companies and titles of events shall be created and used in the state language. The article forwards to the Cabinet of Ministers to further prescribe the regulations in these areas.

According to the regulations of the Cabinet each administrative territory, populated place, street and real estate can have only one official name.¹⁵⁰ In official documents written in Latvian, place names should be spelled in accordance with the existing spelling rules, taking into consideration also the

¹⁴⁷ In interview with Martins Pujats, Editor of the Latvian Quarterly.

¹⁴⁸ *Human Rights in Latvia in 2000* at p. 41.

¹⁴⁹ *Minority Issues in Latvia*, No. 28.

¹⁵⁰ *On Creating, Spelling and Usage of Place Names, Names of Institutions, Non-governmental Organisations, Companies (Enterprises) and Titles of Events*, Regulation 294, at par. 3.

traditions of spelling and usage of the place names. In other type of texts and maps the peculiarities and spelling traditions of the respective region could be taken into account.¹⁵¹ Names of state and municipal institutions, courts etc. (see Article 6(1)) shall be created and used in Latvian.¹⁵² In the spelling of social organisations, private organisations and enterprises within the framework of administrative supervision only the letters of the Latvian or Latin alphabet are allowed to be used.¹⁵³

Titles of events held by state and municipal institutions, courts etc. shall also be created and used in the state language. If more than one language is used as working language, the title of the event can be created in all languages but the title in the state language shall be in the foreground.¹⁵⁴

3.3.1.2 Article 19

Personal names shall be reproduced in accordance with the Latvian language traditions and shall be transliterated according to the accepted norms of the literary language. In a person's passport or birth certificate, the person's name and surname reproduced in accordance with Latvian language norms may be supplemented by the historical or original form of the person's name in another language transliterated in the Latin alphabet.

The spelling and identification of names from other languages are forwarded to be prescribed by the Cabinet of Ministers. The regulations of the Cabinet establish the procedure how personal name and family name shall be spelled and used in the Latvian language as well as spelled and identified in documents.¹⁵⁵ When spelling and using name and family name in the Latvian language the following basic rules shall be observed: A person's name and family name shall be written in Latvian language in the basic documents; the names shall be spelled according to the spelling norms of the Latvian language and Latvian alphabet letters; and every name and family name shall have an ending corresponding to the Latvian language grammatical system in masculine or feminine gender according to the person's gender.¹⁵⁶ Foreign names and family names shall be spelled in Latvian as close as possible to their pronunciation in the original language and according to the rules for the spelling foreign proper nouns.¹⁵⁷ The institution that issues or reissues a personal document shall spell the name and family name in conformity with the regulations, and in case of necessity performs equalisation. According to the regulation equalisation is not to be seen as a

¹⁵¹ *Ibid.* at par. 4.

¹⁵² *Ibid.* at par. 9.

¹⁵³ *Ibid.* at par. 11.

¹⁵⁴ *Ibid.* at par. 14 and 15.

¹⁵⁵ *Regulations on Spelling and Identification of Names and Family Names*, Regulation 295, at par. 1.

¹⁵⁶ *Ibid.* at par. 3.

¹⁵⁷ *Ibid.* at par. 4.

change of a name and family name.¹⁵⁸ If a person wishes and produces documents verifying the historic or original form of his or her surname it could be placed in a certain place in for example the passport.¹⁵⁹ If someone is displeased with the spelling of the name or family name, the person can turn to the State Language Centre with a request to reproduce the personal name in the state language.¹⁶⁰

3.3.2 Conformity with Human Rights Standards

There are many controversies over personal name spelling. In a recent case Mr. Russkih, whose son was born in March 2001, was issued the son's birth certificate, where the surname was written as "Ruskihs", i.e. with one "s" in the middle (since consonants cannot be duplicated in Latvian). In the father's ID issued prior to the adoption of the regulations mentioned above, his surname is spelled as "Russkihs", i.e. with added mandatory Latvian ending "s" but still with duplicated "s" in the middle. Thus, the son's name was distorted further. In response to the complaint addressed to the State Language Centre, the plaintiff was notified that his own surname was recorded in wrong spelling in his passport, and instead of fixing the problem with his son's name, he was invited to come to the passport office to change his own and his wife's name records in their ID:s. The case is particularly sensitive, because the surname in question is ancient and directly related to the person's identity. It means "Russian" in the Russian language, with the traditional ending widely spread in Siberia.¹⁶¹

In another recent case of the same kind, Mrs. Joffe, a naturalised Latvian citizen, was issued a passport where her surname was written as "Jofe", i.e. with one "f". The State Language Consultative Service ruled that letter "f" cannot be duplicated in Latvian, but the historical form of the surname "Joffe" can be written in the passport's section "Special Marks", in order "to prevent possible mistakes and complications". Mrs. Joffe declared her intention to contest this decision in court.¹⁶²

Mr. Russkih and Mrs. Joffe will probably be unsuccessful in their complaints for the domestic Latvian courts. The Latvian Supreme Court has already on three occasions dismissed the complaints applying to get the spelling of their names changed. In one case a woman of Ukrainian ethnic origin wanted to get her name changed so that it would correspond better with her original Ukrainian name. She referred to Article 114 of the Latvian Constitution that protects national minorities from interference in their private life. The complaint was dismissed on the grounds that the change of the spelling of her name did not infringe the right

¹⁵⁸ *Ibid.* at par. 6.

¹⁵⁹ *Ibid.* at par. 8.

¹⁶⁰ *Ibid.* at par. 14.

¹⁶¹ *Minority Issues in Latvia*, No. 29.

¹⁶² *Minority Issues in Latvia*, No. 23.

to private life.¹⁶³ Only in one case a person has won a similar case. In the first instance Ferdinand Christopher Martin Mentzen claimed his right to spell his name as above and won. The difference compared to the other cases was, according to the court, that his father was of German nationality.¹⁶⁴ ¹⁶⁵ Nevertheless, the case came up in the Supreme Court, where he lost.¹⁶⁶

The topography and name provisions of the State Language Law generate hardship for many minorities and place an additional hurdle to accession to the Framework Convention. The provisions tamper with Article 11 of the Framework Convention and its obligation on the state parties to recognise first names and surnames and to display traditional local names etc. in the minority language.

The provisions could further be questionable in the view of the non-interference clause in Article 27 of the CCPR. De Varennes is of the opinion that *any* state restriction on the use of a person's name is a violation against the spirit and explicit wording of the article.¹⁶⁷

Maybe the provisions are also too much interfering in the private life. In *the Stjerna v. Finland* it was stated that an obligation from the state side to change surname, would violate Article 8 of the ECHR and the right to private life. The Latvian legislation do not provide for total change of names, but the changes in the spelling of the names as a consequence of the legislation might also be too much of interfering in the private life.

3.4 Education (Article 14)

3.4.1 Contents of the Article

According to Article 14 of the State Language Law everyone has a right to receive education in the state language. The Education Law should regulate use of the state language in this area.

Article 9 of the Education Law contains regulations for “language of acquiring of education”. Here it is stated that at state and municipal educational institutions education shall be carried out in the state language. Exceptions can be made at

¹⁶³ Case No. SKC-8, 2001.

¹⁶⁴ Case No. 2-3353/9, 1999.

¹⁶⁵ His mother on the other hand who also claimed her right to spell the surname in the German way lost in the Supreme Court and was obliged to spell her name in the Latvian order, i.e. “Mencenas” instead of “Mentzen” (Case No. SKC-42).

¹⁶⁶ The Mentzen Case was determined on 10 May 2001. The judgement is still not published.

¹⁶⁷ See p. 32 of the study.

inter alia private education institutions and at state or municipal education institutions, which implement education programs of national minorities. Article 9 read in conjunction with paragraph 9 of the transitional provisions prescribes that secondary education at state and municipal-founded schools from the beginning of 2004 must be solely in Latvian. Article 41 of the Education Law is provided for education institutions to prepare education programs for national minorities. In these programs it is up to the Ministry of Education and Science to determine the subjects that are to be in the state language. Article 59 contains regulations that allow state and municipalities to participate in funding private education institutions only if they implement the state accredited education programmes in the state language. Article 50 contains the restrictions on working as a pedagogue. To be allowed to work as a pedagogue there is for example a demand to possess the state language proficiency certificate of the highest knowledge level. According to Article 57 parents are entitled to choose pre-school and primary education institution for their child.

3.4.2 Conformity with Human Rights Standards

The Education Law does not state a specific right to establish private education institutions, but several articles mentions private education. The conclusion can be made that there does not exist any prohibition on establishing private schools. The regulations concerning private education founded by private means are in no way conspicuous.

Today there are many state-founded schools in Latvia with Russian as the language of instruction.¹⁶⁸ This situation will change in the coming years. Provided by the Education Law, as of 2004 there will only be possible to get instruction in Russian until 9th grade. In secondary schools Latvian will be the sole language of instruction. This concerns state and municipal-founded schools. Only in schools where the education programs of national minorities have been implemented, there is a possibility to get instruction in Russian. Many subjects, however, can be provided in Latvian even then.

In private education institutions the instruction in Russian can remain. With the new law, however, for many of the schools that have received financial support from the public, the situation has changed drastically. If they do not implement the education program they loose all contributions.¹⁶⁹

¹⁶⁸ In 1999 more than 200 schools, with pupils from eight minorities, were financed by state or municipals (*Comments of the Ministry of Foreign Affairs on the Preliminary Draft Information Report on Latvia*).

¹⁶⁹ The new regulations also create problems for the many Russian-speaking teachers. The first of January 1999 88 teachers were dismissed on the ground not obtaining the third level certificate of knowledge in Latvian. They were offered language courses free of charge whilst also enjoying unemployment benefits (*Honouring of Obligations and Commitments by Latvia* at division V. under part d), *Education Law*).

The education regulations could be questionable from the view of Article 14(2) of the Framework Convention, which provides for opportunities to be taught the minority language or for receiving instruction in this language. The article indeed leaves a wide measure of discretion, but the new education legislation has the total opposite effect than the one hoped for in the Framework Convention. Even the conformity with meaning of Article 27 1

The Monitoring Committee of the European Council is concerned about lack of bi-lingual education after the 9th grade and encourages the state of Latvia to ensure children belonging to minorities to be able to use their minority language also in secondary education. They further calls on Latvian authorities to work out and adopt a law on protection of national and language minorities and to establish a state body in charge of minority affairs¹⁷⁰ Critique like this has also been delivered by the UN Committee on the Rights of the Child.¹⁷¹

The National Programme for Latvian Language Training assists minorities to learn Latvian. They above all offer language courses for persons whose career opportunities are threatened by poor Latvian skills, for example schoolteachers, medical professionals and policemen. Also various marginalized groups, such as disabled persons, are given the opportunity to learn Latvian through this programme.¹⁷² In 1999 The Naturalisation Board gave 2 000 non-citizens, who do not speak Latvian, the possibility to attend language courses free of charge.¹⁷³ Usually language-training courses are quite expensive in Latvia, but theoretically everybody has the possibility to learn Latvian.

3.5 Media (Article 16 and 17)

3.5.1 Contents of the Articles

Article 16 states that the language of mass media broadcasts is regulated by the Law on Radio and Television. The most questionable article in the law is Article 19(5) that prescribes the broadcasting/telecasting time in other languages than the state language in private broadcasting not be exceeding 25 % of the total broadcasting time. In public Latvian TV and radio 20 % of the time can be in a minority language (Article 62(3)).

¹⁷⁰ (Honouring of Obligations and Commitments by Latvia at division V. under part d), *Education Law*).

¹⁷¹ *Minority Issues in Latvia*, No. 26.

¹⁷² *Human Rights in Latvia 1999*.

¹⁷³ “*Chas*”, Russian-language daily, 30 March 2001.

Article 17 of the State Language Law concerns feature films and video films in foreign languages or their excerpts shown in public. Films like these shall be dubbed in Latvian or shown with the original soundtrack and subtitles in Latvian. Subtitles in a foreign language are permitted, but if shown together with subtitles in Latvian, the Latvian subtitle has to be placed in the foreground and is not allowed to be smaller in size or less complete in content than the subtitle in the foreign language.

3.5.2 Conformity with Human Rights Standards

The State Language Law does not contain any special regulations for the press or books etc. There are many Russian dailies, journals and books published in Latvia and they are in no way limited or furnished with restrictions. According to Paragraph 13 of the Law about the Unrestricted Development and Right to Cultural Autonomy of Latvia's Nationalities and Ethnic Groups, national societies, associations and organisations are given the right to use the government mass media resources as well as to form their own mass media. The government should further promote the publication and distribution of national periodicals and literature.

The broadcasting legislation causes more problems. The regulation that limits broadcasting time in a foreign language to 25 % of the total time constitutes a big obstacle for the minorities in Latvia in their linguistic interchange, non the less as the supervising of the observance of the regulation is very industrious. The National TV and Radio Council suspended broadcasting of the private radio station "Maksimums" in Daugavpils for one day for its violation of the Law on Radio and Television. State officials had found that 61 % of the radio station's broadcasting had been in the Russian language.¹⁷⁴ Earlier in the year the private radio station "Business & Baltia was suspended for one week as punishment for the same violation. Warnings and fines have also been imposed.^{175 176}

The 25 % limit of private radio and television broadcasting time in minority languages is very questionable. It even reduces the earlier permitted broadcasting time from 30 % to 25% of the total.¹⁷⁷ This constitutes big interference in the private sphere and Article 27 of the CCPR, the articles for protecting the freedom of expression and the principle of non-discrimination are seriously violated. Limitations in using minority languages in private broadcasting violates

¹⁷⁴ *Minority Issues in Latvia*, No. 26.

¹⁷⁵ *Minority Issues in Latvia*, No. 25.

¹⁷⁶ On February 15 the Saeima adopted amendments to the Law on Radio and Television, mainly aimed at incorporating relevant directives of the European Union. The amendment submitted by the pro-minority faction "For Human Rights in United Latvia" which proposed abolishing of the "language quotas" for private radio and TV companies, was rejected, again (*Minority Issues in Latvia*, No. 25).

¹⁷⁷ *Honouring of Obligations and Commitments by Latvia* at division V. under part g), *Radio and Television Law*.

the spirit and even the explicit wording of Article 27 to let minorities “in community with other members of the group [...] use their own language”. The possibility to communicate in the minority language via the airwaves has not been totally deprived, but limited in an unreasonable manner. De Varennes argumentation on allocation of frequencies to radio or television described above can be used.¹⁷⁸ Especially in areas where a minority language is spoken by a big part of the population, to refuse them to use their language would appear unreasonable and maybe constitute a discriminatory action.

The regulations are further straight against the inward sense of the Framework Convention and for example Article 9(3) that obliges parties in their legal frameworks to grant persons belonging to national minorities the possibility of creating and using their own media. In this case the minorities have certainly not been taken away the possibility to create their own media, but in an abrupt way their possibility to use their language in the broadcasting, which is against the whole spirit of the Convention.

¹⁷⁸ See p. 25 of the study.

4 Conclusions

In 1999 the Latvian State Language Law was adopted. The law confirms the position of the Latvian language as state language in Latvia and regulates the use of the language in public and private sphere. According to inter alia the Committee on the Honouring of Obligations and Commitments by Member States of experts from the Council of Europe the legitimate interest of Latvia in protecting and promoting the Latvian language ought to be fully recognised. Nevertheless, there can be much criticism made against the law.

There are many fields where a minority's right to its language can be applied: In the area of education, in media, in the public sphere and not the least in the private sphere. The language rights are protected under the principle of non-interference and the principle of non-discrimination. Further do freedom of expression, freedom of private life and freedom of assembly constitute important tools in the protection of a minority's right to its language.

As elaborated above there are several instances where the Latvian State Language Law does not correspond with human rights standards and it does not give the minorities in Latvia the protection and rights associated with the language that they are entitled to. The regulations of the law are interfering in all four categories where a minority's right to its language can be applied and its regulations often constitute violation against the rights and freedoms and the principle of non-discrimination laid down in International Law. The main problem is the lack of distinction between the public and private sphere.

The regulations of the law primary give expression to the aim at protecting the Latvian language in a persistent demographic situation, where the language has turned out to be in an exposed position. Most probably, more than a century under Soviet rule and the consequences springing from it also influence the legislation. This shall not be forgotten, but some of the most controversial elements of the law will have to be changed for Latvia's future membership in the community of democratic societies.

Supplement

The State Language Law

Article 1

The purpose of this Law shall be to ensure:

- 1) the preservation, protection and development of the Latvian language;
- 2) the preservation of the cultural and historical heritage of the Latvian nation;
- 3) the right to use the Latvian language freely in any sphere of life in the whole territory of Latvia;
- 4) the integration of national minorities into Latvian society while respecting their right to use their mother tongue or any other language;
- 5) the increase of the influence of the Latvian language in the cultural environment of Latvia by promoting a faster integration of society.

Article 2

(1) This Law shall regulate the use and protection of the state language at state and municipal institutions, courts and agencies belonging to the judicial system, as well as at other agencies, organisations and enterprises (or companies), in education and other spheres.

(2) The use of language in private institutions, organisations and enterprises (or companies) and the use of language with regard to self-employed persons shall be regulated in cases when their activities concern legitimate public interests (public safety, health, morals, health care, protection of consumer rights and labour rights, workplace safety and public administrative supervision) (hereafter also: legitimate public interests) and shall be regulated to the extent that the restriction applied to ensure legitimate public interests is balanced with the rights and interests of private institutions, organisations, companies (enterprises).

(3) The Law shall not regulate the use of language in the unofficial communication of the residents of Latvia, the internal communication of national and ethnic groups, the language used during worship services, ceremonies, rites and any other kind of religious activities of religious organisations.

Article 3

(1) In the Republic of Latvia, the state language shall be the Latvian language.

(2) In the Republic of Latvia every person has the right to file applications and communicate in the state language at agencies, voluntary and religious organisations, enterprises (or companies).

(3) The state shall ensure the development and use of the Latvian sign language for communication with the deaf.

(4) The state shall ensure the preservation, protection and development of the Latgalian written language as a historically established variety of the Latvian language.

Article 4

The state shall ensure the protection, preservation and development of the Liv language as the language of the indigenous population (autochtons).

Article 5

For the purpose of this Law, any other language used in the Republic of Latvia, except the Liv language, shall be regarded as a foreign language.

Article 6

(1) Employees of state and municipal institutions, courts and agencies belonging to the judicial system, state and municipal enterprises, as well as employees in companies in which the state or a municipality holds the largest share of the capital, must know and use the state language to the extent necessary for the performance of their professional and employment duties.

(2) Employees of private institutions, organisations, enterprises (or companies), as well as self-employed persons, must use the state language if their activities relate to legitimate public interests (public safety, health, morals, health care, protection of consumer rights and labour rights, workplace safety and public administrative supervision).

(3) Employees of private institutions, organisations and enterprises (or companies), as well as self-employed persons who, as required by law or other normative acts, perform certain public functions must know and use the state language to the extent necessary for the performance of their functions.

(4) Foreign specialists and foreign members of an enterprise (or company) administration who work in Latvia must know and use the state language to the extent necessary for the performance of their professional and employment duties, or they themselves must ensure translation into the state language.

(5) The required level of the state language proficiency of the persons referred to in paragraphs 1, 2 and 3 of this Article, as well as the assessment procedure of their state language proficiency, shall be set by the Cabinet of Ministers.

Article 7

(1) The state language shall be the language of formal meetings and other business meetings held by state and municipal institutions, courts and agencies belonging to the judicial system, state or municipal enterprises and companies in which the state or a municipality holds the largest share of the capital. If the organisers consider it necessary to use a foreign language during the meeting, they shall provide translation into the state language.

(2) In all other cases when a foreign language is used at formal meetings and other business meetings, the organiser shall provide translation into the state language if so requested by at least one participant of the meeting.

Article 8

(1) At state and municipal institutions, courts and agencies belonging to the judicial system, state and municipal enterprises, as well as in companies in which the state or a municipality holds the largest share of the capital, the state language shall be used in record-keeping and all documents. Correspondence and other types of communication with foreign countries may be conducted in a foreign language.

(2) Employees of private institutions, organisations, enterprises (or companies), as well as self-employed persons, shall use the state language in record-keeping and documents if their activities relate to legitimate public interests (public safety, health, morals, health care, protection of consumer rights and labour rights, workplace safety and public administrative supervision).

(3) Private institutions, organisations and enterprises (or companies), as well as self-employed persons who perform public functions as required by law or other normative acts shall use the state language in record-keeping and documents which are required for performing their functions.

(4) Statistical reports, annual reports, accountancy documents and other documents which, according to law or other normative acts, are to be submitted to the state or municipal institutions shall be in the state language.

Article 9

Contracts of natural and legal persons about the provision of medical and health care services, public safety and other public services in the territory of Latvia shall be in the state language. If the contracts are in a foreign language, a translation into the state language shall be attached.

Article 10

(1) Any institution, organisation and enterprise (or company) shall ensure acceptance and review of documents prepared in the state language.

(2) State and municipal institutions, courts and agencies belonging to the judicial system, as well as state and municipal enterprises (or companies) shall accept and examine documents from persons only in the state language, except for cases set forth in paragraphs 3 and 4 of this Article and in other laws. The provisions of this Article do not refer to the statements of persons submitted to the police and medical institutions, rescue services and other institutions when urgent medical assistance is summoned, when a crime or other violation of the law has been committed or when emergency assistance is requested in case of fire, traffic accident or any other accident.

(3) Documents submitted by persons in a foreign language shall be accepted if they are accompanied by a translation verified according to the procedure prescribed by the Cabinet of Ministers or by a notarised translation. No translation shall be required for documents issued in the territory of Latvia before the date on which this Law comes into force.

(4) Documents received by state and municipal institutions, organisations and enterprises (or companies) from foreign countries may be accepted and reviewed without a translation into the state language.

Article 11

(1) Events organised by state and municipal institutions, courts and agencies belonging to the judicial system, state and municipal enterprises, as well as by companies in which the state or a municipality holds the largest share of the capital, shall be conducted in the state language. Should a foreign language be used, translation into the state language shall be provided by the organiser.

(2) In events taking place in the territory of Latvia in which foreign natural and legal persons participate and in which institutions mentioned in paragraph 1 of this Article participate in the organising, one of the working languages shall be the state language, and the organiser shall ensure translation into the state language. In cases stipulated by the Cabinet of Ministers, the State Language Centre may exempt the organiser from this requirement.

(3) Taking into account the purpose of this Law and the basic principle of language use as provided by Article 2 of this Law, the Cabinet of Ministers may determine cases when, in serving legitimate public interests, organisers of other events taking place in the territory of Latvia may be obliged to ensure translation of the event into the state language.

(4) Use of language in meetings, marches and pickets is provided for by the Law on Meetings, Marches and Pickets.

Article 12

In the structural units of the National Armed Forces, only the state language shall be used except for cases when other laws and international treaties concluded by the Republic of Latvia, as well as international treaties on the participation of the National Armed Forces in international operations or exercises, stipulate otherwise.

Article 13

Legal proceedings in the Republic of Latvia shall be conducted in the state language. The right to use a foreign language in court is prescribed by the laws regulating court functions and procedures.

Article 14

The right to receive education conducted in the state language is guaranteed in the Republic of Latvia. The use of the state language in education is prescribed by the laws regulating education.

Article 15

Research papers qualifying for a scientific degree shall be submitted in the state language or in a foreign language accompanied by a translation of a comprehensive summary in the state language. Research papers may be publicly presented in the state language or in a foreign language if the author agrees and if the relevant council that confers scientific degrees approves.

Article 16

The language of mass media broadcasts is regulated by the Law on Radio and Television.

Article 17

(1) Feature films, videofilms or their excerpts shown in public shall be provided with a voice-over, dubbed in the state language or shown with the original sound track and subtitles in the state language while observing accepted norms of the literary language.

(2) In the cases mentioned in this Article, subtitles in a foreign language are also permissible. Subtitles in the state language shall be placed in the foreground and

shall not be smaller in size or less complete in content than the subtitles in the foreign language.

Article 18

- (1) In the Republic of Latvia, place names shall be created and used in the state language.
- (2) The names of public institutions, voluntary organisations and enterprises (or companies) founded in the territory of Latvia shall be created and used in the state language except for cases prescribed by other laws.
- (3) The names of events mentioned in Article 11 of this Law should be created and used in the state language except for cases prescribed by other laws.
- (4) In the territory of the Liv Shore, the place names and the names of public institutions, voluntary organisations, enterprises (or companies), as well as the names of events held in this territory, shall be created and used also in the Liv language.
- (5) Creation and use of designations shall be prescribed by the Cabinet of Ministers regulations.

Article 19

- (1) Personal names shall be reproduced in accordance with the Latvian language traditions and shall be transliterated according to the accepted norms of the literary language while observing the requirements of paragraph 2 of this Article.
- (2) In a person's passport or birth certificate, the person's name and surname reproduced in accordance with Latvian language norms may be supplemented by the historical form of the person's surname or the original form of the person's name in another language transliterated in the Latin alphabet if the person or the parents of a minor so desire and can provide verifying documents.
- (3) The spelling and the identification of names and surnames, as well as the spelling and use in the Latvian language for personal names from other languages, shall be prescribed by the Cabinet of Ministers regulations.

Article 20

- (1) The text on stamps and seals, except those mentioned in paragraph 3 of this Article, shall be in the state language if stamps and seals are used on documents which, according to this Law or other normative acts, shall be in the state language.
- (2) Texts on letterheads, except those mentioned in paragraph 3 of this Article, shall be in the state language if the letterheads are used on documents that, according to this Law or other normative acts, shall be in the state language.

(3) The text on stamps and seals, as well as the text on letterheads of state and municipal institutions, courts and agencies belonging to the judicial system, state and municipal enterprises and companies in which the state or a municipality holds the largest share of the capital, shall be only in the state language except for the cases referred to in paragraph 4 of this Article. This provision applies also to private institutions, organisations, enterprises (or companies), as well as to self-employed persons who under law or other normative acts perform certain public functions, if the performance of these public functions involves the use of stamps, seals or letterheads.

(4) The Cabinet of Ministers shall determine cases in which the institutions and persons mentioned in paragraph 3 of this Article may use also foreign languages along with the state language in creating and using stamps, seals and letterheads.

(5) If a foreign language is used along with the state language in the texts on stamps, seals and letterheads, the text in the state language shall be in the foreground and shall not be smaller in size or less complete in content than the text in a foreign language.

Article 21

(1) Information intended for the public provided by state and municipal institutions, courts and agencies belonging to the judicial system, state and municipal enterprises and companies in which the state or a municipality holds the largest share of the capital shall be only in the state language except for cases provided for by paragraph 5 of this Article. This provision shall apply also to private institutions, organisations, enterprises (or companies), as well as to self-employed persons who under law or other normative acts perform certain public functions, if the performance of these functions involves the providing of information.

(2) Information on labels and markings on goods manufactured in Latvia, user instructions, inscriptions on the manufactured product and on its packaging or container shall be in the state language. In cases when a foreign language is used along with the state language, the text in the state language shall be placed in the foreground and shall not be smaller in size or less complete in content than the text in the foreign language. These requirements do not apply to goods meant for export.

(3) If the markings, user instructions, warranties or technical certificates of imported goods are in a foreign language, a translation of the above information in the state language shall be attached to every imported item.

(4) Information on signs, billboards, posters, placards, announcements and any other notices shall be in the state language if it concerns legitimate public interests and is meant to inform the public in places accessible to the public, except for cases provided by paragraph 5 of this Article.

(5) Taking into account the purpose of this Law and the basic principle of language use as provide by Article 2 of this Law, the Cabinet of Ministers shall

determine cases when the use of a foreign language along with the state language is permissible in information intended to inform the public in places accessible to the public.

(6) The Cabinet of Ministers shall also determine the cases when the institutions and persons mentioned in paragraph 1 of this Article may provide information in a foreign language and set the procedure for using the languages in information mentioned in paragraphs 1, 2, 3, and 4 of this Article.

(7) If a foreign language is used along with the state language in information, the text in the state language shall be in the foreground and shall not be smaller in size or less complete in content than the text in the foreign language.

Article 22

(1) Standardised terminology shall be used in specialised teaching materials, in technical documents and office documents. The creation and use of terms shall be prescribed by the Terminology Commission of the Latvian Academy of Sciences (hereafter, the Terminology Commission). New terms and their definition standards may be used in official communications only after their approval by the Terminology Commission and publication in the newspaper "Latvijas Vēstnesis".

(2) The Statutes of the Terminology Commission shall be approved by the Cabinet of Ministers.

Article 23

(1) In official communications, the Latvian language shall be used in accordance with the norms of the literary language.

(2) The norms of the Latvian literary language shall be codified by the Commission of the Latvian Language Experts of the State Language Centre.

(3) The Statutes of the Commission of the Latvian Language Experts and the norms of the Latvian literary language shall be approved by the Cabinet of Ministers.

Article 24

(1) It shall be the duty of state and municipal institutions to provide material resources for the research, cultivation and development of the Latvian language.

(2) The state shall ensure the formulation of the state language policy which shall include scientific research, protection and teaching of the Latvian language; which shall augment the role of the Latvian language in the national economy; and which shall promote individual and public awareness of the language as a national value.

Article 25

Persons who have violated the provisions of this Law shall be held liable in accordance with the procedure set by law.

Article 26

(1) The State Language Centre shall monitor the observance of this Law in the Republic of Latvia.

(2) The State Language Centre shall be subordinate to the Ministry of Justice, and Statutes of the Centre shall be approved by the Cabinet of Ministers.

Transitional Provisions

1. This Law shall come into force on 1 September 2000.

2. When this Law comes into force, the Law on Languages of the Republic of Latvia (Latvian SSR Supreme Council and Government Reporter, 1989, No. 20) shall become null and void.

3. By 1 September 2000, the Cabinet of Ministers shall adopt the regulatory acts referred to in this Law and shall approve the Statutes of the Commission of the Latvian Language Experts and the Statutes of the Terminology Commission.

The Law was adopted by the Saeima on 9 December 1999.

The President of the State: V.Vīke-Freiberga

Riga, 21 December 1999

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