



The Latvian Language Legislation and the Involvement of the OSCE-HCNM: The Developments 2000-2002

Ulf Hansson, University of Ulster

The emphasis of this article is based on the adoption of the regulations implemented in the Latvian Language Law in August this year. A second focus of the paper is on the involvement of the Organisation for Security and Cooperation in Europe's High Commissioner on National Minorities (OSCE-HCNM) in these developments within the context of European legislation. By doing this it is possible to establish an understanding of the language situation in Latvia and how it fits in with the developments of minority rights in the area of language in Europe after 1991.

Latvia-A Linguistic Background

The language situation in Latvia is characterised by great diversity. Among Russians, the largest minority by far, some 29-30% of the population and other groups such as Belorussians, the usage of the Russian language is obvious as both citizens and non-citizens in the group alike tend to use it. There are Russian papers (printed both in Latvia and the Russian Federation) and Russian Federation TV (through cable and satellite). There are also minority programmes on the radio, through stately *Doma Laukums* or *SWH+*, a commercial station.¹

In 1998 the Ministry of Education initiated a series of new minority education programmes. This means that schools have to choose one of the four minority education programmes which regulates the teaching in the minority language and in Latvian. The number of students learning Latvian has therefore increased, as has the number of Latvian schools, whereas Russian schools have decreased. Concern here has been expressed over the 1998 decision to have all high-school (years 9-12) classes taught mainly in the Latvian language by 2004 (Transitional Regulations of the Law of education, adopted October 1998).²

Other ways by which the Latvian language has been promoted are through *The National Programme for Latvian Language Training* (NPLLT), initiated in 1995, and funded partly by the Ministry of Education and the United Nations Development Programme as well as the EU and individual countries. It has been estimated that since 1995 some 24,000 persons have attended courses arranged by the programme. The NPLLT estimates that some 700,000 of Latvia's residents have only a limited knowledge of Latvian. A crucial aspect linked to the aspects of language has also been the fact that candidates standing in both parliamentary and local elections had to pass the third level of fluency in the Latvian language. There have been cases where candidates fulfilled these requirements but still were barred from standing – a breach against the International Covenant on Civil and Political Rights (ICCPR) and in particular Articles 2 and 25. There have also been instances of uncertainty regarding this legislation.³

Language Legislation and Legislative developments 1989-2002

In 1989 the Latvian Supreme Council adopted the new '*Law on Languages of the Republic of Latvia*'. The Law stated that all state institutions were to use the state-language in their communication with the public as well as in their daily working routine. Employment within the public sector also meant that individuals were to have a certain command of Latvian along with Russian, using the latter, particularly if the work involved contact with the

¹ *Doma Laukums* also broadcasts weekly programmes in other minority languages, such as Georgian and Polish. This is organised in conjunction with the Latvian Association of the National Cultural Societies of Latvia. The amount of airtime (25% ceiling) is regulated by the National Council on Radio and Television Broadcasting and regulated by the Law on Radio and Television from 1995.

² There have been numerous demonstrations over the Law and is considered by minority organisations as particularly problematic and concern has been expressed by representatives from a variety of organisations regarding aspects such as the low number of bilingual teachers and language support.

³ See elections in Daugavpils and Riga, March and April 2001.

public. Russian was recognised as the *lingua franca* of the USSR and thereby the language of the security forces, border guards and police. Individuals were still allowed to use Russian in their contact with the authorities and state documents continued to be issued both in Russian and in Latvian. In 1992 the Latvian Supreme Council passed amendments to the Law of 1989. In relation to minority groups, it stated that they were entitled to use their languages. This meant, for example, religious services could be held in a minority language. The law stated (prefix):

The status of the Official State language, which is established for the Latvian language, does not affect the constitutional rights of the residents of other nationalities to use their native language or other languages.

According to the amendments, documents issued to individuals had to be in the Latvian language, whereas submitted documents could be in Latvian, Russian, English or German. This also meant that a request written in Russian could be replied to in the same language. Also among the changes was the establishment of the State Language Centre as the sole authority in charge of monitoring the Law. It was also responsible for the testing of language proficiency so as to ensure that individuals, according to Article 7 of the law, possessed a certain knowledge of Latvian.

In 1998 Article 4 of the Constitution was amended as the Saeima voted in favour of making the Latvian language the official language in the Republic of Latvia.

Throughout 1999 the debates regarding the Language legislation continued and on 6 July the *Saeima* adopted a new language, which was vetoed one week later by the newly elected President Vaira Vike-Freiberga. After continued debate, the new and revised Law was finally adopted on 9 December 1999. It states that one of the purposes was to ensure that national minorities were integrated into society while at the same time 'their right to use their mother tongue or any other language' (Art 1: 4) was protected. It further states that all languages apart from Latvian, and the *Liv* language, were to be regarded 'as a foreign language' (Art 5). The law further considers the *Latgalian* written language '...as a historically established variety of the Latvian language' (Art 3). The Law states that Latvian was to be used in situations 'related to legitimate public interest', such as in safety, consumer rights and health-care (Art 2: 2). In the Law (Art 2: 3) it is further stated that it:

...shall not regulate the use of language in the unofficial communication of the residents of Latvia, internal communication of national and ethnic groups...

Particular references were made to public worships and religious activities (Art 2) and that those public events could be held in languages other than Latvian. Regarding documentation, all documents submitted to the state or municipal organisation had to be accompanied by a certified Latvian translation, unless they were from foreign countries or in emergency cases. For business exchanges foreign languages were allowed but Latvian translation had to be provided if requested by a participant at a meeting (Art 7).

Linked to the aspects of language were the Latvian Election Laws (The Saeima Election Law and The Law on Municipal, Regional and Local Government Elections) which stated that in order to become eligible for election, candidates had to prove their fluency in the Latvian language. The particular case referred to had occurred in the local elections of 1997.⁴ The ruling by the UN Human Rights Committee on 25 July 2001 (see Communication No. 884/1999: Latvia 31/07/2001) stated that:

⁴ Mrs Ignatane was a candidate for 'The Movement of Social Justice and Equal Rights in Latvia' in the local elections in 1997 and was, in the election, prohibited from standing by the Latvian Election Commission based on an opinion by the State Language Board that she did not have the highest proficiency required even though she possessed a valid state language proficiency certificate from 1993.



The annulment of the author's candidacy pursuant to a review that was not based on objective criteria and which the State party has not demonstrated to be procedurally correct is not compatible with the State party's obligations under Article 25 of the Covenant.

The Committee further stated that Mrs Ignatane 'has suffered specific injury in being prevented from standing in the local elections in the city of Riga 1997.' In April 2002, the European Court of Human Rights also declared that preventing a candidacy from standing in the Parliamentary elections in 1998 because of 'insufficient state language proficiency', was a violation of Article 3 of protocol No.1 (right to free elections) of the European Convention on Human Rights.⁵ In May 2002 the Saeima, in response to the ruling, amended the Election Laws so that Latvian language proficiency is no longer a prerequisite for standing in parliamentary or municipal elections (see Press Release Latvian Ministry of Foreign Affairs, 2002-05-09).⁶ At the same time the Saeima in April 2002 voted in favour of amendments to the Language Law, which among other things made Latvian the working language of the Saeima. In January 2002 the Latvian President also established the 'Commission of the Official Language' to oversee the development of the Latvian language legislation over a period of three years.

The Events of the Summer 2000

Even though the Language Law was adopted in December 1999, throughout the summer of 2000 various drafts on the nine language regulations required under the law were issued and discussed until the government adopted the various regulations on August 22nd 2000. There were also controversies, such as when the *Saeima* fraction 'For Human Rights in a United Latvia' with 16 seats in the parliament, called for non-violent resistance to the new Law on August 22, such as a boycott of enterprises that did not serve customers in Russian and did not comply with the Law (Latvian Radio 4 September 2000, in BBC SWB SU/3939 E/2 7 September 2000). These protests were characterised by the Latvian cabinet of Ministers as 'irresponsible'. The Minister for Foreign Minister, Berzins argued that the law did not 'discriminate against others in any way'. In the Latvian press, various individuals also expressed non-satisfaction with the protests against the Law and with the involvement of the OSCE-HCNM (Latvian Radio, 18 July 2000, in BBC SWB SU/3898 E/2 21 July 2000, LETA News agency 4 September 2000, in BBC SWB SU/3939 E/2 7 September 2000, Latvian Radio 8 September 2000, in BBC SWB SU/3943 E/2 12 September 2000, Baltic Times No. 37 September 14-20 2000). The demonstrations continued, on 26 September an information centre in 'The Latvian Human Rights Committee' (an NGO) premises was set up and with open support from within the Russian community and from organisations such as the Union of Ukrainians. At the same time there were voices within the 'Equal Rights Movements' who argued that this was the 'wrong way' and accepted the fact that Latvian was the only state language (ITAR-TASS, Moscow 22 September 2000, in BBC SWB SU/3955 E/3 26 September 2000, Latvian Radio 11 September 2000, in BBC SWB SU/3945 E/2 14 September 2000).

The main points of concern focused on the new proficiency levels and the language inspections. They criticised the fact that Latvian authorities, by adoption of the amendments, underlined the exclusive use of the Latvian language and neglected other languages. References were made to the fact that the *Livonian* language was recognised as

⁵ Mrs Podkolzina stood as a candidate in the Parliamentary elections 1998 for the 'For Human Rights in United Latvia'. As was the case with Mrs Ignatane, Mrs Podkolzina also possessed a valid certificate.

⁶ The Latvian Cabinet of Ministers had previously, in November 2001 adopted the final amendments to the State Language Proficiency 'Regulations on Proficiency Degree in the State Language Required for Performance of Professional and Positional Duties and the Procedure of Language Proficiency Tests' and 'Regulations on State Language Centre'. The regulations allow the inspectors from the Language Centre to repeatedly examine the proficiency certificate but not to conduct tests. The crucial aspect, however, was that the amendments now enabled candidates to stand in elections, regardless of proficiency in the Latvian language - the implementation mechanism of the Language, which started in 1999 was thereby completed.

a minority language and a 'historic language' whereas Russian and other languages were not. Protesters further criticised the 'Latvianization' of individual names, something perceived as an 'interference in the private sphere'. One of the aims of the protests was to collect evidence of the problems and negative consequences inflicted by the new regulations. The organisers also strove to make the public aware of their 'language rights' and people were encouraged to use historical names of streets and places as well as to send their children to schools in which the language of instruction was Russian. Protesters also demanded that Latvia ratify the Framework Convention for the protection of National Minorities (FCNM) which it had previously signed in May 1995.

The European Dimension in the Case of Latvia: The Comments of the OSCE-HCNM and References to post-Cold War European Norms and Practice

The institution of the OSCE-HCNM was established under the auspices of the then CSCE at the Helsinki Summit 1992 and although the OSCE-HCNM consists of an office with ten professional-level employees, much of the attention in public has been on the person appointed as HCNM. In this case it has been on Max van der Stoel, the former foreign minister of the Netherlands, who held the post between 1992 and 2001.⁷ The mandate of the OSCE-HCNM (CSCE 1992 Summit, Helsinki Document, Section 2) is shaped by notions of 'early warning', 'conflict prevention' and 'impartiality' only gives the OSCE-HCNM the power to inform the OSCE and its member states on activities and events, which then can call for action and involvement by the High Commissioner does not require the approval of the Senior or Permanent Council of the OSCE.⁸ The mandate further enables the HCNM to visit local leaders 'on the spot', but the OSCE-HCNM is not allowed to get involved in conflicts affected by violence and terrorism or in individual cases. Much of the work of the OSCE-HCNM is characterised by a high degree of confidentiality and a long-term perspective through recommendations to the State concerned. The recommendations are seen as 'established practice' and 'principal element of the HCNM's method' (see Packer, in Trifunovska 2001).⁹

Given the OSCE-HCNM's area of concern, it is interesting that the mandate does not include a definition of a national minority. A definition often referred to is the one from the OSCE's Copenhagen Document of 1990, where it was stated that belonging to a national minority was a 'a matter of a person's individual choice'. The term 'national minority' is used in the context of the OSCE as a group which is perceived as being 'under risk', particularly in the context of a potential conflict. The involvement of the HCNM in countries where the minority is linked to larger groups across the border gives further indications. The OSCE-HCNM has issued further reports on the situation on linguistic rights in OSCE member states and a report on the situation for both Roma and Sinti groups in Europe. In 1999 the OSCE-HCNM initiated a study on linguistic rights in its member states. The OSCE together with the now defunct Foundation on Inter-Ethnic Relations issued the *Oslo Recommendations Regarding the Linguistic Rights of National Minorities* in 1998.¹⁰

The involvement of the HCNM in the Latvian context has been characterised by recommendations, comments and visits and with an emphasis on citizenship, education as well as language. Regarding recommendations and comments, the focus has been on the need to educate non-Latvian speakers through language training to clarify points in legislation and the need to standardise the language test for citizenship. As well as the need for further support for the NPLLT has also been emphasised. In an article in the Baltic

⁷ Max van der Stoel was succeeded by the Swedish diplomat Rolf Ekeus in 2001.

⁸ Interestingly enough, 1992 also saw the adoption of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities 1992

⁹ For further reading on the work of the OSCE-HCNM, see Kemp (2001). For more detailed studies on the work of the OSCE-HCNM in Latvia, see Zagman (1999), Ratner (2000).

¹⁰ Expert's Recommendations were elaborated on at the request of the HCNM with regard to minority education rights (The Hague Recommendations of 1996) and the Effective Participation of Minorities in Public Life (The Lund Recommendations of 1999).



Times, the OSCE-HCNM underlined the need for 'maximum opportunities to learn Latvian' and that he was not in favour of official bi-lingualism (Baltic Times no. 150 18/3 1999). Apart from the recommendations and comments, the HCNM has conducted visits and study-trips to Latvia since 1992. These trips have involved meetings with representatives such as the President, the Prime Minister, the Foreign Minister, the Minister of Culture, the Minister for Education, and the Heads of the Language Centre and the Naturalisation Board. The development of the 1999 State Language Law was studied by the HCNM and, for example, in May 1999, a group of experts met in Latvia for discussions with the Saeima committee on Science and Education. With reference to the developments in 2000 members of the HCNM office, together with a representative from the Council of Europe's minority section, visited Riga to meet Latvian representatives for further discussions on the Law. Representatives from the office of the OSCE-HCNM also arrived in Latvia for talks with Minister of Justice Ingrida Labucka and Foreign Minister Indulis Berzins. These visits continued in the autumn of 2001 and with particular emphasis on the Election law.¹¹ The visits of the HCNM continued throughout 2002, and as in 2001, the emphasis was set on the Election Law, and with the HCNM underlining that 'the priority task of...is to foster the passing of amendments to the Election Law...' (Integration of Society in Latvia: From Plans to Implementation). In a statement (April 2002), the HCNM stated, with reference to the judgement by the European Court of Human rights,

This is a necessary condition in a functioning democratic society and will bring Latvian legislation in line with international standards and the practice of democratic states.

The Developments in 2000

Throughout the year the OSCE-HCNM regularly commented on the many drafts for the new Language Law which had been adopted in December 1999. In letters, particularly to the Chairman of the *Saeima* Committee on Education, Culture and Science, Mr Dzintars Abikis, the HCNM argued that there was a difference between '...the private use of place names in a language other than the State language and official indications in State domains and activities'. The new Law was seen by the OSCE-HCNM as 'essentially in conformity with Latvia's international obligations and commitments' (statement 9 December 1999). Regarding public information, the comments focused on the problems of defining 'legitimate public interest' and the HCNM referred to the problems of establishing such a supervisory task. Another point of concern was the use of Latvian in relation to place-names and personal names. Regarding the former, the HCNM saw no need 'for private entities to create their names in a particular language' but that in certain cases the State could require translation. Regarding personal names the HCNM stated that that there was no need for '*Latvianisation*' of individual's names.

Regarding the regulations, which were to be implemented under the law, the OSCE-HCNM sent a letter to the Latvian Justice Ministry in August 2000, which summarised most of the concerns with the new legislation. In the letter the OSCE-HCNM (Letter from the HCNM to Ms Labucka, Latvian Minister of Justice, 4 August 2000) wrote:

To be more precise, it is the opinion of the experts [SENT BY THE HCNM], which I share, that substantial problems remain in the draft regulations concerning the following provisions of the Law: Article 6 (5) [re. language proficiency in employment]; Article 11 (2) and (3) [re. Interpretation/translation at events];

¹¹ The presence of the OSCE in the Latvian context also changed as the Mission in December 2001 came to a close (see OSCE Newsletter January 2002, No. 1, Vol. IX) as the head of Mission recommended to the Permanent Council regarding the mandate is being fulfilled. The Latvian government, in its newsletter, 'Integration of Society in Latvia: From Plans to Implementation' (December 2001 (20) referred to the 'successful end of the work of the OSCE Mission' but that by now the mandate of the mission was completed.

Article 18 (5) [re. place-names and names of entities]; and Article 21 (5) and (6) [re. use of language in public information]. In addition, I remain concerned about the intent and effects of the draft regulation concerning Article 19 (3) [Re. personal names].

Regarding proficiency levels there was concern about the 'suitability' of the various levels of proficiency and their application to certain professions. Comments on the proficiency requirements focused on whether or not persons who had lost their certificate had to redo the test. Article 11 the OSCE-HCNM questioned whether or not Latvian had to be used at all events where persons representing Latvia took part and if this was really an example of 'legitimate public interest'. The HCNM expressed concern whether the names of institutions and enterprises were cases of 'legitimate public interest' and referred to the draft regulations as 'unclear and inaccessible' and he referred to the regulations on the use of language in public information as 'complex and cumbersome'. Regarding personal names, the HCNM welcomed the inclusion of both transliterated and Latvian names but expressed concern for what he perceived to be 'a forthcoming problem'. The HCNM stated (Letter from the HCNM to Ms. Labucka, Latvian Minister of Justice, 4 August 2000) that:

...there remains the concern that the requirement of Latvianization even along transliteration may be in contradiction with the right to privacy and respect for individual identity. This point must be made because there is no evident need (administrative or otherwise) in a democratic society for Latvianization of one's name...

Throughout the remarks the HCNM refers to European norms and standards and many objections to the Latvian language legislation are based on these norms, such as the Copenhagen Document from 1990 (paragraph 34):

The participating States will endeavour to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the state concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue, as well as, wherever possible and necessary, for its use before public authorities, in conformity with applicable national legislation.

In the comments made by the HCNM, a reference was made to the Council of Europe's *Framework Convention for the Protection of National Minorities*. Adopted in 1995 and brought into force on February 2 1998, Article 11 of the Convention deals extensively with the right to official recognition of the use of the first name and surname in a minority language. The OSCE-HCNM also made reference to the *Oslo Recommendations Regarding the Linguistic Rights of National Minorities*, which underlined the right for minorities (Article 1):

...to use their personal names in their own language according to their own traditions and linguistic systems. These shall be given official recognition and be used by public authorities.

As seen above, the HCNM expressed concern for the use of language in public information. Article 10 (2) of the *Framework Convention for the Protection of National Minorities* states that minorities have the right to public services in their respective language, but only when they represent a significant number in a particular region:

In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as



possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.

Clearly, in this sort of situation, a government needs to consider the introduction of public services in the minority language. The Convention's Explanatory Report states that persons should not be excluded from using the official language and/or a minority language. Article 11 (3) is perhaps more interesting:

In areas traditionally inhabited by a substantial number of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is sufficient demand for such indications.

This line of argument is clearly evident in the comments provided by the HCNM. However, as the Framework Convention (Article 9) makes clear, entitlement to the right of minorities to obtain information in the minority language and for the state to 'facilitate access to the media for people belonging to national minorities' depends on the size of the community or its length of stay. The article further states that according to the policy of 'non-discrimination', a national minority should have access to information transmitted from another state. Similar arguments can be found in the *European Charter for Regional and Minority Languages* adopted by the Council of Europe in 1992 and which came into force on 1 March 1998. Regarding administration and public services, the charter declares that public services in the minority language should be available 'as far as this is reasonably possible'. Article 7 further states that countries 'shall take' into consideration the needs and wishes expressed by users of a minority language and the need 'to promote regional or minority languages in order to safeguard them'. The need to take the financial considerations into account and the limited resources available for minority programmes is indicated by the terms 'as far as possible' (Art 10). In the Explanatory report the financial aspects are further underlined.

In the *Oslo Recommendations Regarding the Linguistic Rights of National Minorities*, concerning the use of a minority language before administrative authorities, it is stated (Article 13):

In regions and localities where persons belonging to a national minority are present in significant numbers and where the desire for it has been expressed, persons belonging to this national minority shall have the right to acquire civil documents and certificates both in the official language or languages of the State and in the language of the national minority in question from regional and/or local public institutions. Similarly regional and/or local public institutions shall keep the appropriate civil registers also in the language of the national minority.

In the interaction with the Latvian government over minority language rights one area which, was frequently discussed, was how to determine the distinction between 'public' and 'private'. The *Oslo Recommendations Regarding the Linguistic Rights of National Minorities* looks at situations where these might overlap and situations which may be perceived as 'arbitrary'. In the preamble it is stated that these recommendations are meant to 'clarify the existing body of rights' regarding minority language rights. An important point is made in the preamble where the authors state that (Explanatory Note, p. 11):

The Recommendations do not propose an isolationist approach, but rather one which encourages a balance between the right of persons belonging to national

minorities to maintain and develop their own identity, culture and language and the necessity of ensuring that they are able to integrate into the society as full and equal members.

Aspects surrounding linguistic rights have been the primary focus of the work of the OSCE-HCNM over the past ten years and particular what constitutes 'legitimate public interest'. The Charter for Regional and Minority Languages sheds some light on the matter as it states the aim is for all states (Article 13):

...to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations...

There is a reference to clear 'legitimate public interest' when actions affect the public sphere, such as threats to national security affecting the public sphere. This is well illustrated in the case of languages and business and where the *Oslo Recommendations* (Article 12) refers to cases such as '...the protection of workers or consumers, or in dealings between the enterprise and governmental authorities.' It is perhaps possible in the context of 'public' and 'private' to talk of a 'balance' between the right of an individual to use a minority language in private economic activities and the interest of the state to require the additional use of an official or dominant language.

Of What Did the Regulations Consist? Did the OSCE-HCNM Have any Input?

The new regulations debated in the summer of 2000, provided for among other things, six levels of language proficiency compared to the previous three and how these tests were to be carried out. The regulations further contained a stipulated fee for these tests (Regulations No. 296-paragraph 5, Article 6). The highest level of proficiency in Latvian was required for the professions such as lawyers, notaries public. The lower skilled occupations, such as public transport conductors and taxi-drivers only required the lower level of proficiency. For employees in state and municipal institutions the necessary requirements were issued by the state, whereas in the private institutions the employers themselves determined this.

Private institutions and enterprises were exempted from having to interpret events apart from those which provided information 'that concerns legitimate public interests [defined as: 'concerning public safety, health, morals, health care, protection of consumer rights and labour rights, work place security and public administrative supervision'] (Regulations No. 288-paragraph 2 and 3, Article 11). If a public event is organised by the state or municipal institution, in conjunction with a private body, one of the working languages has to be Latvian and translation has to be provided. In relation to events organised by private institutions, information in Latvian was necessary for 'legitimate public interests' (Regulations No. 288, paragraphs 2 and 3, Article 11). Foreign languages were allowed in public information, in cases such as international tourism, international events, security considerations, extraordinary situations and epidemics. This further allowed the use of foreign languages in printed form in signs but only along with texts in Latvian in 'the main place' (Regulations No. 292, paragraphs 5 and 6, Article 21). Regarding the creation and use of place-names the use of the Latvian language was underlined, but reservations were made for the Livonian language and the territory of the Liv coast (Regulations No. 294, paragraph 5, Article 18). The regulations further dealt with the use of foreign languages in the text of stamps, seals and letterheads (regulations No. 286, paragraph 4, Article 20).

As stated above, one of the areas which the OSCE-HCNM's criticism was focused was the 'use of Latvian' names and the use of Latvian in the 'public' and 'private' sphere. It is



interesting to note that the Latvian government to a certain extent considered the points made by the HCNM. Regarding the spelling and identification of names and family names (No. 295, paragraph 3, Article 19) the HCNM recommendation to adopt a 'double entry system' was not implemented and the regulations still state that names should be recorded 'according to the Latvian language grammar and spelling rules'. The regulations allow for personal names in historical or original form, but only in Latin letters, not in Cyrillic or in any other script (Regulations No. 295, paragraph 3, Article 19). Regarding the certificates (No. 296, paragraph 5, Article 6) it was later stated that if a certificate was lost within a year it could be re-issued. It was further stated that certificates issued between 1992 and 2000 were valid. Regarding the translation of events, the final regulations and the demand for obligatory translation 'at international events at which persons representing Latvia take part', remained even though the HCNM had questioned the 'legitimate public interest' of this rule. On the use of language in information (No. 292, paragraph 5 and 6, Article 21) the previous paragraph which demanded the use of 'correct Latvian language' was deleted. Regarding language proficiency levels, the comments made by the HCNM regarding, *inter alia*, union leaders were taken on and this group was not included in the professions requiring the highest level.¹² In a statement of 31 August 2000 the OSCE-HCNM stated that 'virtually all' of his recommendations had been considered. Overall he found the

...regulations implementing the State Language Law as being essentially in conformity with both the Law and Latvia's international obligations.

The OSCE-HCNM further stated that the forms of language proficiency levels in the private sector had to be formulated 'so as to fulfil a legitimate public interest'. The HCNM then 'invited' the Latvian Government to make small amendments to the regulations, such as to limit expressly and strictly the scope of the 'Regulations on Ensuring Interpretation in Events' to legitimate public interests. In the statement there were also references to the fact that Latvia had signed, but not ratified, the *Framework Convention for the Protection of National Minorities*, and therefore

...it is to be noticed that certain specific matters will have to be reviewed upon Latvia's anticipated ratification of the Framework Convention for the Protection of National Minorities.

The HCNM has played an important role in facilitating the negotiations between Latvia and the European Union (EU) as a reference. The European Union issued a statement on 5 September 2000 in which there were references to the work done by the OSCE-HCNM in the area of language legislation. Latvian regulations were found to be along the lines of European standards and therefore did not hinder Latvia's chances for further European integration (Declaration de la Présidence au nom de L'Union Européenne sur l'adoption des décrets d'application de la loi sur la langue en Lettonie, Paris 5 September).¹³ In the Regular Progress Report (November 2000), the EU underlined the need for further work in the field of Latvian language training and the shortage of language teachers. The report further states:

In the 1999 Accession Partnership with Latvia included 'align the Language Law with International standards and the Europe Agreement' as a short-term

¹² On 21 November 2000 the Cabinet of Ministers adopted amendments to the 'Regulations on Proficiency Degree in the State Language Required for Performance of Professional and Positional Duties and the Procedure of Language Proficiency Tests'. Included in the highest level are occupations such as lawyers, teachers of Latvian language and literature and notaries.

¹³ Interestingly, some three weeks later the joint EU-Latvia Parliamentary Committee recommended that Latvia should ratify the *Framework Convention for the Protection of National Minorities* (ITAR-TASS, Moscow 19 September 2000, in BBC SWB SU/3952 E/2 22 September 2000). In the article the FCNM was referred to as 'the Framework Convention on National and Ethnic Minorities'.

priority. Both the Language Law and the implementing regulations are now essentially in conformity with Latvia's international obligations.

In the conclusion of the Progress report, the issues of 'legitimate public interest' and the 'principle of proportionality' was underlined as well as the need for Latvia to comply with its international obligations and the Europe Agreement.

The 2001 Report made references to possibilities for 'different interpretations' regarding provisions of the Language Law, a law seen as not containing 'provisions that are manifestly incompatible with Latvia's obligations under the Europe agreement' and references were made to the co-operation between the OSCE, Council of Europe and The Latvian Language Centre. In the general evaluation, the Commission stated that:

Latvia should ensure that the implementation of the Language Law respects the principles of justified public interest and proportionality, Latvia's international obligations and the Europe agreement.

Conclusion

The issue of language will continue to feature in Latvian politics, particularly in the areas of education and general politics. Areas of concern still remain. How the Russian language will be used in interactions with authorities is one such area. In an area like Daugavpils, with a majority of Russian-speakers, an alternative could be put forward. This has been referred to in the explanatory report to the Charter for Regional or Minority Languages as a 'quasi-official language' use, where the minority language becomes the 'working language' or the normal 'means of communication' in a particular region. In situations with people who do not speak/understand the regional or minority language, the language used would be the official one. Interestingly enough, after the adoption of the regulations, a translator was employed by the Daugavpils City Council to provide free assistance to people with government applications.

The problem is not so much the legislation, but rather the lack of communication/dialogue between the various authorities and also between the authorities and individual non-Latvian speakers. It is also clear that in the case of Latvia there still is a 'grey area' regarding the public/private spheres of language requirement. This is something, which the Latvian authorities need to address.

The work of the OSCE-HCNM has been of great importance in the case of Latvia. The recommendations and advice has been taken on board and are reflected in the relationship between the EU and Latvia. As the OSCE-HCNM has no executive powers, the importance of support from the organisation at large becomes particularly important. It is easy here to make a reference to the 'carrot' and the 'stick'. It is also important to remember that the *Framework Convention for the Protection of National Minorities*, the *European Charter for Regional or Minority Languages* and the *OSCE Oslo Recommendations Regarding the Linguistic Rights of National Minorities* provide Latvian legislators and decision-makers with a clear blueprint regarding developments in the area of minority rights in Europe. These various documents are proof of the established norms and standards regarding legislation in the sphere of minorities and linguistic rights in Europe.

References

Latvian Documents

Law on Languages of the Republic of Latvia, Latvian Supreme Council, May 1989.

Law on Languages of the Republic of Latvia, Latvian Supreme Council, 1992.

Law on Foreign Broadcasts, Saeima 1998.

Information leaflet from the State Language Centre, 1999.



Law on Languages of the Republic of Latvia, Saeima December, 1999.
Regulations No. 286, paragraph 4, Article 20 of the State Language Law, Regulations on the Usage of Foreign Languages in the Text of Stamps, Seals and Letterheads.
Regulations No. 288-paragraph 2 and 3, Article 11 of the State Language Law, Regulations on ensuring interpretation in events.
Regulations No. 292, paragraphs 5 and 6, Article 21 of the State Language Law, Regulations on the Usage of Languages in Information.
Regulations No. 294, paragraph 5, Article 18 of the State Language Law, Regulations on Creating and Usage of Place-names, Titles of Institutions, Non-governmental Organizations, Companies (Enterprises) and Titles of Events.
Regulations No. 295, paragraph 3, Article 19 of the State Language Law, Regulations on spelling and Identification of Names and Family Names.
Regulations No. 296-paragraph 5, Article 6, of the State Language Law, 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.
The Latvian government, 'Integration of Society in Latvia: From Plans to Implementation' (20 December 2001).

News Reports

Baltic Times, No. 150, March 18-25 1999, 'Local language laws vs. international obligations'.
Latvian Radio, 18 July 2000, in BBC SWB SU/3898 E/2 21 July 2000.
Latvian Radio 9 August 2000, in BBC SWB SU/3916 E/2 11 August 2000.
Diena 10 August 2000, in BBC SWB SU/3919 E/1 15 August 2000.
LETA News Agency 16 August 2000, in BBC SWB SU/3922 E/2 18 August 2000.
'Latvian Language Regulations Spark Controversy', RFE/RL Baltic States Report Vol. 1, No. 30 1 September 2000.
Latvian Radio 4 September 2000, in BBC SWB SU/3939 E/2 7 September 2000.
LETA News agency 4 September 2000, in BBC SWB SU/3939 E/2 7 September 2000.
Latvian Radio 8 September 2000, in BBC SWB SU/3943 E/2 12 September 2000.
Latvian Ministry of Foreign Affairs (www.mfa.gov.lv), downloaded 13 September 2000.
RFE/RL 'Newswire' 12 September 2000.
Latvian Radio 11 September 2000, in BBC SWB SU/3945 E/2 14 September 2000.
Baltic Times No. 37 September 14-20 2000, 'Leftists call for 'non-violent' resistance'.
ITAR-TASS, Moscow 19 September 2000, in BBC SWB SU/3952 E/2 22 September 2000.
ITAR-TASS, Moscow 22 September 2000, in BBC SWB SU/3955 E/3 26 September 2000.

OSCE Documents

The CSCE, Second Conference on the Human Dimension of the CSCE, Copenhagen 5 June-29 July 1990, Document of the Copenhagen Meeting of the Conference on the Human dimension of the CSCE.
The CSCE-OSCE, 1992 Helsinki Summit, The Challenges of Change.
Oslo Recommendations Regarding the Linguistic Rights of National Minorities, 1998.
The OSCE-HCNM statement 9 December 1999.
Letter from the HCNM to Labucka, Latvian Minister of Justice, 4 August 2000.
The OSCE-HCNM, Statement regarding the adoption of regulations implementing the Latvian State Language Law, 31 August 2000.
OSCE Newsletter January 2002, No. 1, Vol. IX.
The OSCE-HCNM, Press statement following the judgement of the European Court of Human Rights, 11 April 2002.

Council of Europe Documents

Council of Europe, Framework Convention for the Protection of National Minorities, 1995.
Council of Europe, European Charter for Regional and Minority Languages, 1992.

Council of Europe, European Court of Human Rights, Press release issued by the Registrar, Chamber judgement in the case of Podkolzina v. Latvia, 9 April 2002.

European Union Documents

The European Union, Declaration de la Presidence au nom de L'Union Europeene sur l'adoption des decrets d'application de la loi sur la language en Lettonie, Paris 5 September
Commission of the European Communities, Regular Report from the Commission on Latvia's Progress Towards Accession, November 2000.

Commission of the European Communities, Regular Report from the Commission on Latvia's Progress Towards Accession, November 2001.

United Nations Documents

International Covenant on Civil and Political Rights (ICCPR), 1966.

United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992.

United Nations, Human Rights Committee, Communication No. 884/1999: Latvia 31/07/2001, 25 July 2001.

Other Sources

Kemp, Walter A., 2001, *Quiet diplomacy in Action: the OSCE High Commissioner on National Minorities*, The Hague, Kluwer International Law.

Packer, John, 2001, 'The Protection of Minority Language Rights through the Work of OSCE Institutions', in Trifunovska, Snezana, ed., *Minority Rights in Europe. European Minorities and Languages*, The Hague, T.M.C. Asser Institute.

Ratner, Steven R., 2000, 'Does International Law Matter in Preventing Ethnic Conflict?', *New York University Journal of International Law and Politics*, vol. 32, no. 3, 591-698.

Zaagman, Rob, 1999, *Conflict Prevention in the Baltic States: the OSCE High Commissioner on National Minorities in Estonia, Latvia and Lithuania*, Flensburg, European Centre for Minority Issues.