

LATVIJAS REPUBLIKAS
MINISTRU PREZIDENTA BIROJS

Prime Minister's Office of the Republic of Latvia

Riga

April 24, 1998

OSCE High Commissioner
on National Minorities

**On the Proposals of the Working Group Concerning
the Amendments to the Citizenship Law**

Honourable Mr. M. van der Stoel,

As it was agreed between You and Prime Minister, I am sending to You proposals – concerning amendments to the Citizenship, Education and Language Laws.

Following version have prepared and agreed by the parliamentary working group of granting citizenship to children of stateless persons:

The law shall be supplied with the Article 31 as follows:

"Article 31, The citizenship of a child born in Latvia after August 21, 1991

1. a child born in Latvia after August 21, 1991 in accordance with the order stated in this law has rights to gain the citizenship of Latvia coming into age of 16, if both of parents are citizens of former USSR, or if one of them is the citizen of former USSR but the other is stateless or unknown and who are no citizens (residents) of any other state and who at the moment of submitting the application permanently reside in Latvia for no less than 5 years;
2. a child born in Latvia after August 21, 1991 in accordance with the order stated in this law has rights to gain the citizenship of Latvia coming into age of 16, if both of parents are stateless, or one of them is stateless but the other is unknown and who are no citizens (residents) of any other state and who at the moment of submitting the application permanently reside in Latvia for no less than 5 years;
3. if a child wishes to gain the citizenship of Latvia in accordance with the order stated in Paragraph 1 and 2 of this Article at the same time when submitting the application for granting citizenship of Latvia he/she shall submit one of the following documents:
 1. a document confirming that a person applying has gained special or industrial education (industrial secondary school, industrial high

- school, industrial school) with the Latvian language as a language of tuition;
2. a document confirming in accordance with the order stated in the Articles 19 and 20 of this law that a person applying knows the Latvian language."

The Government working group have prepared following version of granting citizenship to children of stateless persons:

The law shall be supplied with the Article 31 as follows:

" Article 31. The citizenship of a child born in Latvia after August 21, 1991

1. a juvenile born in Latvia after August 21, 1991 and who is less than 16 years old is the citizen of Latvia if:
 1. it is claimed by both of parents who at the moment of submitting the application permanently reside in Latvia for no less than 5 years and who are no citizens (residents) of any other state;
 2. it is claimed by one of the parents who brings up the juvenile alone or the adopter who at the moment of submitting the application permanently resides in Latvia for no less than 5 years and who are no citizen (resident) of any other state;
2. a juvenile whom in accordance with the Paragraph 1 of this Article the citizenship is asked for shall reside in Latvia permanently and he/she must not be the citizen of any other state since birth;

(3) a person is considered to be one of the parents bringing up a child alone:

1. a mother in case there is no record on father in the birth certificate;
 2. one of the parents in case the other has been deprived of the authority of parents;
 3. one of the parents in case the other in accordance with the law has been proclaimed man-hunted and has been hunted for at least one year;
 4. one of the parents in case the other is admitted to be missing;
 5. one of the parents in case the other is dead;
 6. one of the parents in case the marriage is divorced.
2. a juvenile, if persons who are authorised to submit the application for granting the citizenship to a child has not submitted it, coming into the age of 16 has rights to gain the citizenship of Latvia in accordance with the order stated in this Article submitting one of the following documents:
 1. a document confirming that a person applying has gained special or industrial education (industrial secondary school, industrial high school, industrial school) with the Latvian language as a language of tuition;
 2. a document confirming in accordance with the order defined in the Articles 19 and 20 of this law that a person applying knows the Latvian language.
 3. persons who are authorised to submit the application for granting the citizenship to a child when submitting the application in addition provide with the pledge confirmed in accordance with the order defined by the Cabinet of

Ministers to promote the integration of a child in Latvia and the mastering of the Latvian language as an official language of the state, to promote the education and to cultivate the loyalty of a child to the Republic of Latvia."

The group of experts turns your attention to the fact that accepting the parliamentary version together with the cancellation of naturalisation "windows" children of stateless persons can gain the citizenship together with their parents in accordance with naturalisation since the moment of birth till becoming 16 years old. Besides, such children shall not pass any test stated by the Law on Citizenship as well as they shall not pay the naturalisation fee. Furthermore, these children, in case their parents are not willing to undergo naturalisation, can gain the citizenship independently coming into the age of 16 in accordance with lightened regulations without passing tests of the Constitution of Latvia Republic, national anthem, the knowledge of the history if they have gained professional education in the Latvian language or in case they have passed the test of the knowledge of Latvian in accordance with the order stated in the Articles 19 and 20 of the Law on Citizenship.

It must be emphasised that for those children who have gained general education in the Latvian language in accordance with the Paragraphs 1-3 of the Article 2 of the Law on Citizenship the citizenship of Latvia can be gained in the order of registration without passing any tests. For that reason, in order to promote the realisation of the process of the integration of society and learning of the state language the Government experts propose to add the following supplement, to the project of the Law on Education:

- Article 27 shall be supplied with the paragraph 6 as follows:

"6) learning of the state language."

2. Article 31 shall be supplied with the new Section 5 as follows:

"5) In the programs of basic education for ethnic minorities the bilingual education shall be performed and the level of the knowledge of the state language shall be provided to the extent to create the possibility to continue the education in the state language."

The supplement to the Article 27 of the project provides the contents of the preparatory educational programme with the regulation on the mastering of the state language but the amendment to the Article 31 of the project supplies the programme of basic education for ethnic minorities with the regulation that

a person gaining the basic education achieves the level of the state language that provides the possibility to continue education in the state language.

The project of the law on the state shall be supplied with the standards stating that in all educational institutions the learning of the state language shall be provided in such level that holders of school completion certificate can work in any profession or hold any position in the Republic of Latvia.

Consequently, the Article 12 of the project of the law on the state language shall be supplied with the new Section 3 as follows:

"The rights to obtain the education in the state language are guaranteed in the Republic of Latvia. In schools of other languages of tuition, also in private schools and in educational institutions sponsored by foreign countries the mastering of the state language shall be provided according to the state standards of the school education in the Latvian language that would grant the possibility to holders of school completion certificate to study in any secondary and higher educational establishment as well as hold any position in the Republic of Latvia."

I am asking your opinion on the versions prepared by the parliamentary and government working groups till April 27 of this year.

The matter is so urgent due to the fact that the government of Latvia will review the matter in the meeting of the Cabinet of Ministers on April 28 of this year.

Sincerely yours,

Juris Vinkelis
Head of government working group



**Organization for Security and Co-operation in Europe
High Commissioner on National Minorities**

H.E. Mr Guntars Krasts
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The Hague
30 April 1998

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No 984/98/L

Dear Mr Krasts,

Thank you for the letter of 24 April in which Mr Vinkelis sent the two variants of proposals of the Government Working Group concerning the Amendments to the Citizenship Law. Allow me, as requested by you, to submit some comments on the Working Group's proposals. I will restrict my comments only to the second variant prepared by the Government Working Group, since the proposals in the first variant do not, I regret, comply in any way with my original Recommendations regarding children of stateless parents.

First of all, I welcome the basic underlying principle that citizenship should be granted to children who were born in Latvia since 21 August 1991, who are under 16 years of age, and whose parents are stateless and have been resident in Latvia for no less than 5 years. I would emphasise, however, that while I understand, on the one hand, the logic of making amendments not only to the Citizenship Law to introduce these new provisions, but also to incorporate amendments to the drafts in the new Education Law and Language Law, it must be taken into account that the adoption of these laws might turn out to be protracted processes.

It would seem highly unlikely that either the new Language Law or Education Law will be adopted by the Saeima before the Summer. There even appears to be a distinct possibility that the final version of these laws can only be decided upon by parliament after the elections. I assume, therefore, that the coming into force of the legislation regarding the conferral of citizenship on children of stateless parents according to the formula I have proposed will not be made dependent on the adoption or entering into force of the text you have sent me. As we discussed before, it might meet little international understanding if Latvia, after having agreed to fulfill my recommendation regarding children of stateless parents in Latvia, would subsequently delay its implementation.

I note and welcome from the proposals of the Government Working Group the endeavour to relax citizenship requirements for children. However, what it is necessary to retain in the new law is the right of stateless children born in Latvia to be conferred citizenship unconditionally (i.e. without language, educational, or other requirements). In my view, it is not only a legal obligation on the Republic of Latvia to conform its Citizenship Law with this requirement of international law, but such a step would also contribute significantly to promoting social integration within the country. Insofar as the Republic of Latvia does of course have a legitimate interest also in ensuring that everyone within the state is in a position to achieve this through control of the school curriculum and education system in general. That is to say, the state is able to prescribe for all children the learning of the state language. The main point I would make here is that meaningful Integration of non-Latvian youths into society, as it seems to me, will be achieved through **both** the granting of citizenship **and** a good grounding in the Latvian language through the education system. The two processes go hand in hand. In this respect, I recall that the only persons who could benefit from the proposed change in the Citizenship Law will reach the age of 7 after 21 August of this year. As such, they are all to be subject to the full education system of Latvia.

If I may return, Mr Prime Minister, to the specifics of the proposals of the Government Working Group, while I welcome the possibility of children as of age 16 (Para. 4, on page 3) to apply on their own for citizenship (in case the person authorized to apply on their behalf before they have reached that age has failed to do so), this nevertheless must not be made dependent on conformity with any other conditions. It should be entirely sufficient for them to submit an application. Consequently, sub paras 1 & 2 of Para. 4 should be deleted. Furthermore, on the same basis, I recommend to delete Para. 5 as well. To reiterate, the concerns embodied in these aforementioned paragraphs will in any event be met through the education process to which all children are subject.

I have taken note of the particular changes of the Education law and Language law which the government intends to submit to the Saeima. In my view these proposals have to be seen against the background of the general policy of Latvia aimed at ensuring that all citizens have an adequate knowledge of the state language. I note that this general policy is in conformity with the 1990 OSCE Human Dimension Copenhagen Document, which refers in Para. 34 to the need for persons belonging to national minorities to learn the official language of the State concerned. At the same time, the OSCE Copenhagen Document requires that "...(t)he participating States will endeavor to ensure that persons belonging to national minorities ... have adequate opportunities for instruction of their mother tongue or in their mother tongue...". This clearly points towards the need for balance, and I would expect that the specific content of Latvian language education would and should respect the right of persons belonging to a national minority to learn their own language as well.

These would be some initial comments, Mr Prime Minister, to the proposals which I received from the Government Working Group. I would be happy to provide further details, if required, as well as comments on any subsequent draft proposals.

With best wishes,
Yours sincerely,

Max van der Stoep
OSCE High Commissioner on National Minorities

[c.c. Mr Juris Vinkelis/Head of government working group]