



THE CONSTITUTIONAL COURT OF THE REPUBLIC OF LATVIA

**Dissenting opinion
of Justice of the Constitutional Court**

Jānis Neimanis

in Riga, 27 November 2019

in the case No. 2018-22-01

“On the Compliance of Section 1(1) of the Law of 22 March 2018 “Amendments to the Education Law” with Article 1, the Second Sentence of Article 91, the First Sentence of Article 112 and Article 114 of the *Satversme* of the Republic of Latvia”.

1. By the judgment of the Constitutional Court in the case No. 2018-22-01, Section 9, Paragraph 1¹ of the Education Law was found to be compliant with sentence two of Article 91, sentence one of Article 112, and Article 114 of the Constitution of the Republic of Latvia (hereinafter – the *Satversme*). Section 9, Paragraph 1¹ of the Education Law stipulates that general education and vocational education at the stage of basic education and secondary education in private educational institutions shall be acquired in the official language. In my opinion, this provision had to be recognised as non-compliant with Article 112 of the Constitution since it infringes disproportionately on the freedom of private educational institutions.

2. Latvia as a democratic, socially responsible nation state governed by the rule of law is based on human dignity and freedom. In the context of Article 112 of the Constitution, human freedom also includes freedom to exercise one’s rights to education not only in educational institutions established by the central and local governments, but also in private educational institutions through the establishment, administration and attendance thereof with the aim of receiving education.

3. An essential feature of a private educational institution is its free right to organize the process of education, determine goals, world outlook, teaching methods, teaching aids, learning content for the education process, choose educatees [students, learners] and teachers. The freedom of establishing private educational institutions and of [private] schooling ensures the openness of society towards the diversity of educational methods, contents and forms and people's need to exercise their and their children's private rights in the field of school education. Caring for the development of their child, the child's parents can freely choose that their child will receive education in a specific privately owned educational institution, which will educate the child in a manner best suited to the child's development and interests. Finally, parents or educatees themselves can determine in what form the child will receive education, including not only face-to-face/full-time education, but also the forms of extra-mural, distance, or self-education.

4. Without calling into question the existence of threat to the Latvian language and the need to strengthen the knowledge of the official language and its everyday use, I believe that the State could just as well achieve that aim by different means that do not infringe disproportionately on the freedom of private educational institutions. I can conclude from the provisions of the Education Law that the State can control private education institutions to ensure that education acquired there would be equivalent to education provided by a state or local government education institution. The State achieves that by means of educational standards, licencing and accreditation of educational programmes, accreditation of educational institutions, public examinations for educatees at private education institutions. Thereby the State can ensure that those educated at private educational institutions do not lag in their knowledge behind educatees in state or local government education institutions. For accredited educational programmes, the State tests the equivalence of knowledge in final public examinations.

5. The State should not interfere with the private schools' freedom of operation to the extent that the State begins to determine teaching methods and forms whereby the educatee should acquire education content. The State should not interfere in all intermediary stages of acquiring education in private schools, since the level of

knowledge and skills of students is very individual and different. The State could determine that the knowledge of the official language should be acquired through a respective subject (subjects) intended for learning the official language, which should be included in a definite educational programme, whereas knowledge of other subjects – left to the choice of the educational institutions in view of the best approach to the child's development. The State could by all means test the knowledge of the official language in final public examinations, which, as noted above, can be determined by the State to be the same for educatees in both state or local government, and private education institutions.

Justice

Jānis Neimanis