



**“Amendments to Education Law” and “Amendments to General Education Law”
of 22 March 2018 comply with the second sentence of Article 91 and Article 114 of
the *Satversme***

On 23 April 2019, the Constitutional Court passed the judgement in case No. 2018-12-01 “On Compliance of the First Part of Section 1, the Words of the Second Part of Section 1 “on the level of pre-school education and basic education, abiding by the provisions of Section 41 of this Law” of the law “Amendments to the Education Law” of 22 March 2018 and the words of the First Part of Section 3 “primary education” and Section 2 of the Law of 22 March 2018 “Amendments to the General Education Law” with the Second Sentence of Article 91, Article 112 and Article 114 of the *Satversme* of the Republic of Latvia”.

The Contested Norms

Section 9 (1) of the Education Law provides that education is acquired in the official language in state and local government institutions of education. By adopting the contested norm, the legislator has applied the general rule regarding the acquisition of education in the Latvian language also to private institutions of education on the level of basic and secondary education. In institutions of education, which provide minority education programmes, on the level of secondary education, has applied the general rule on the acquisition of education in Latvian, whereas in the institutions of education that provide minority education programmes on the level of basic education, has decreased the use of minority languages in the acquisition of the curriculum – at least 80 per cent in basic school and at least 50 per cent in elementary school.

On broadening the claim

At the court hearing, the applicant submitted legal reasoning also with respect to probable incompatibility of also Part 1¹ and 1² of Section 41 of the Education Law with the second sentence of Article 91, Article 112 and Article 114 of the *Satversme* of the Republic of Latvia (hereinafter – the *Satversme*). These norms provide the proportion of using the official language and the minority language in acquiring the study curriculum on the level of basic education. Hence, these are closely linked to the contested norms.

To facilitate comprehensive and objective hearing of the case, the Constitutional Court decided to examine also the compliance of Section 3 (2) of the law “Amendments to the Education Law” with the second sentence of Article 91, Article 112 and Article 114 of the *Satversme*.

The Norms of Higher Legal Force

The second sentence of Article 91 of the *Satversme*: “Human rights shall be realised without discrimination of any kind.”

Article 112 of the *Satversme*: “Everyone has the right to education. The State shall ensure that everyone may acquire primary and secondary education without charge. Primary education shall be compulsory.”

Article 114 of the *Satversme*: “Persons belonging to ethnic minorities have the right to preserve and develop their language and their ethnic and cultural identity.”

The Facts

The Case has been initiated on the basis of an application submitted by twenty members of the 12th convocation of the *Saeima*. They hold that the contested norms are incompatible with Article 112 of the *Satversme*, which imposes the obligation upon the State to ensure that education is acceptable to its addressees. The applicant underscores that the legislator, in choosing the measures for implementing the education policy,

should achieve as fair balance as possible between the interests of various members of society. Likewise, the right to participate in the taking of decisions should be ensured.

It is alleged that the contested norms are incompatible also with the principle of prohibition of discrimination, included in the second sentence of Article 91 of the *Satversme*, which prohibits from discriminating persons, who belong to minorities, on linguistic grounds.

The contested norms are said to be incompatible also with Article 114 of the *Satversme* since reducing the use of minority languages denies the students essential pre-conditions for safeguarding and developing their national identity.

The Court's Findings

In the case under review, one of the contested norms is Section 1(1) of the law of 22 March 2018 “Amendments to the Education Law”. It applies to private institutions of education the rule on the acquisition of education in the official language on the level of basic and secondary education. Prior to the adoption of this contested norm this rule was not applied to private institutions of education. [18.2.]

The Constitutional Court has already in the preparatory stage a number of cases, where the compatibility of the aforementioned norm with the *Satversme* is contested. In abiding by the principle of expedience, the Constitutional Court held that the compatibility of Section 1 (1) of the law of 22 March 2018 “Amendments to the Education Law” with the second sentence of Article 91, Article 112 and Article 114 of the *Satversme* should be examined in hearing case No. 2018-22-01. [18.2.]

On Article 112 of the *Satversme*

The Constitutional Court did not gain confirmation that the contested norms affected the right to education. Hence, the legal proceedings in the part regarding the compatibility of the contested norms with Article 112 of the *Satversme* were terminated. [20.5.]

On the second sentence of Article 91 of the *Satversme*

In reviewing the compliance of the contested norms with the second sentence of Article 91 of the *Satversme*, the Constitutional Court did not establish in any of the aspects referred to by the applicant groups that would be in similar circumstances that would be comparable according to a particular feature (criterion). Hence, in the circumstances of the present case, discriminatory treatment was not found and the contested norms were recognised as being compatible with the second sentence of Article 91 of the *Satversme*. [21.3.]

On Article 114 of the *Satversme*

The Constitutional Court recognised that the State also had the obligation to create the preconditions for the participation of ethnic minorities in a discourse typical of a democratic society. However, at the same time, ethnic minorities should show the initiative to participate in this discourse in the official language. The Constitutional Court recognised that every person, who resided permanently in Latvia, had to know the official language of this State, moreover, on a level to allow full participation in the life of a democratic society. Members of society, who understand and respect the values, on which the *Satversme* is based, are the pre-conditions for the existence of a democratic state governed by the rule of law. [24.2.]

The principle of mutual enrichment of a democratic society should be complied with also in the field of education. I.e., the State must support the safeguarding and development of the singularity of ethnic minorities within the framework of a united system of education,

fostering the development of a common identity of a democratic society, not by contrasting the rights of ethnic minorities with the common interests of society. The State's obligation is to ensure the possibility to acquire in state and local-government schools such education, which reinforces the common identity of a democratic society. [23.2.]

It is the obligation of a democratic state governed by the rule of law to ensure that the rights of each person are respected and to create a harmonious framework for the development of a free and educated personality. The rights included in Article 114 of the *Satversme* is only one element of this framework that needs to be balanced with the general values of society. The Constitutional Court did not gain confirmation of the applicant's view that the contested norms would prohibit from exercising the rights of ethnic minorities. [24.3.]

The Constitutional Court held:

1) to review the compatibility of Section 1 (1) of the law of 22 March 2018 "Amendments to the Education Law" with the second sentence of Article 91, Article 112 and Article 114 of the *Satversme* of the Republic of Latvia within the framework of case No. 2018-22-01;

2) to terminate legal proceedings in the part regarding the compliance of Section 1 (2), the first and the second part of Section 3 of the law of 22 March 2018 "Amendments to the Education Law" and of Section 2 of the law of 22 March 2018 "Amendments to the General Education Law" with Article 112 of the *Satversme* of the Republic of Latvia;

3) to recognise Section 1 (2), the first and the second part of Section 3 of the law of 22 March 2018 "Amendments to the Education Law" and of Section 2 of the law of

22 March 2018 “Amendments to the General Education Law” as being compatible with second sentence of Article 91 of the *Satversme* of the Republic of Latvia;

4) to recognise Section 1 (2), the first and the second part of Section 3 of the law of 22 March 2018 “Amendments to the Education Law” and of Section 2 of the law of 22 March 2018 “Amendments to the General Education Law” as being compatible with Article 114 of the *Satversme* of the Republic of Latvia.

The judgement by the Constitutional Court is final and not subject to appeal, it has entered into force at the moment of its pronouncement.

The judgement will be published in the official journal “Latvijas Vēstnesis” within the term set in Section 33 (1) of the Constitutional Court Law.

The text of the judgement is available on the homepage of the Constitutional Court:

http://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2018/07/2018-12-01_Spriedums.pdf#search=2018-12-01

The press release was prepared with the aim to facilitate understanding of cases heard by the Constitutional Court. It shall not be regarded as part of the judgement and is not binding to the Constitutional Court. The judgements, decisions and other information regarding the Constitutional Court are available at the homepage of the Constitutional Court www.satv.tiesa.gov.lv.

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