



**A case initiated with respect to a norm that determines the language of instruction
in pre-school education institutions**

On 25 September 2019, the 4th Panel of the Constitutional Court initiated the case “On Compliance of Para 9 of Annex 2 and Para 9 of Annex 4 of the Cabinet Regulation of 21 November 2018 No. 716 “Regulation on the National Guidelines on Pre-school Education and Model Programmes of Pre-school education” with Article 64, the first sentence of Article 112 and Article 114 of the *Satversme* of the Republic of Latvia”.

The Contested Norm

The applicants have contested Para 9 of Annex 2 and Para 9 of Annex 4 of the Cabinet Regulation of 21 November 2018 No. 716 “Regulation on the National Guidelines on Pre-school Education and Model Programmes of Pre-school Education” (hereinafter – Regulation No. 716). The contested norms are identical and provide:

“Throughout the stage of pre-school education, acquisition of the Latvian language in integrated learning process shall be facilitated, by using bilingual approach, which, in accordance with the child’s development, shall be implemented in co-operation between teachers, specialists and other employees of the education institutions, as well as using the Latvian language in daily communication. For children from the age of five, in game activities, the main means of communication shall be the Latvian language, except for targeted activities organised for mastering the language and culture of the ethnic minority.”

Norms of Higher Legal Force

Article 64 of the *Satversme* of the Republic of Latvia (hereinafter – the *Satversme*):
“The *Saeima*, and also the people, have the right to legislate, in accordance with the procedures, and to the extent, provided for by this *Satversme*.”

Article 91 of the *Satversme* “All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind.”

The first sentence of Article 112 of the *Satversme*: “Everyone has the right to education.”

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 with respect to an application submitted by children belonging to ethnic minorities, who attend state (local government) or private institutions of pre-school education, and their parents. In these institutions, minority pre-school education programme or minority special pre-school education programme is implemented. The contested norms provide that starting with 1 September 2019 acquisition of the Latvian language in an integrated learning process will be facilitated throughout the stage of pre-school education. For children from the age of five, the main means of communication in game activities is the Latvian language, except for targeted activities organised for mastering the minority language and ethnic culture.

The applicants hold that the contested norm restricts their right to education, established in the *Satversme*, as well as the right to safeguard and develop their minority language and that the legislator’s authorisation has been exceeded, and the principle of prohibition of discrimination has been violated.

The applicants believe that the restriction on fundamental rights had not been established by a law adopted in due procedure because it had not been adopted in appropriate procedure and, also, that the principle of good legislation had been violated. Likewise, the Cabinet had violated the authorisation granted by the legislator. Moreover, it is maintained that the norm does not envisage protection against arbitrary application thereof. Allegedly, the chosen measures do not reach the legitimate aim of

the restriction and the aim of the restriction could be reached by less restrictive measures. Restrictions on acquiring and using the native language are said to be unnecessary in a democratic society.

The applicants note that the children belonging to ethnic minorities are being discriminated against, compared to the Latvian children. Likewise, there have been no grounds for establishing different provisions regarding children with development disorders, belonging to ethnic minorities.

The Legal Proceedings

The Constitutional Court has requested the Cabinet to submit a written reply on the facts of the case and the legal reasoning by **25 November 2019**.

The term for preparing the case is 25 February 2020. The Court will decide on the type of procedure and the date for hearing the case after it has been prepared.

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.

Ketija Strazda

Assistant to the President of the Constitutional Court
Ketija.Strazda@satv.tiesa.gov.lv
+ 371 67830749, + 371 26200580