



**A case initiated with respect to the compliance of the Istanbul Convention
with the *Satversme***

On 3 August 2020, the Constitutional Court initiated the case “On Compliance of Para “c” of Article 3, Para 3 of Article 4 and Para 1 of Article 12 of the Council of Europe Convention of 11 May 2011 on Preventing and Combating Violence against Women and Domestic Violence with the Preamble, Article 1, Article 99 and Article 110 of the *Satversme* of the Republic of Latvia and of Para 4 of its Article 4 with Article 91 of the *Satversme* of the Republic of Latvia and its Article 14 with Article 112 of the *Satversme* of the Republic of Latvia”.

The Contested Norms

Para “c” of Article 3 of the Council of Europe Convention of 11 May 2011 on Preventing and Combating Violence against Women and Domestic Violence (hereafter – the Istanbul Convention) provides that the term “gender” means the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men.

Para 3 of Article 4 of the Istanbul Convention provides: “The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.”

Para 4 of Article 4 of the Istanbul Convention provides that, under the terms of this Convention, the special measures that are necessary to prevent and protect women from gender-based violence are not considered discrimination.

Para 1 of Article 12 of the Istanbul Convention provides that Parties take the necessary measures to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men.

Article 14 of the Istanbul Convention: “1. Parties shall take, where appropriate, the necessary steps to include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education.

2. Parties shall take the necessary steps to promote the principles referred to in paragraph 1 in informal educational facilities, as well as in sports, cultural and leisure facilities and the media.”

The Norms of Higher Legal Force

Preamble to the *Satversme* of the Republic of Latvia (hereafter – the *Satversme*):
“The State of Latvia, proclaimed on 18 November 1918, has been established by uniting historical Latvian lands and on the basis of the unwavering will of the Latvian nation to have its own State and its inalienable right of self-determination in order to guarantee the existence and development of the Latvian nation, its language and culture throughout the centuries, to ensure freedom and promote welfare of the people of Latvia and each individual.

The people of Latvia won their State in the War of Liberation. They consolidated the system of government and adopted the Constitution in a freely elected Constitutional Assembly.

The people of Latvia did not recognise the occupation regimes, resisted them and regained their freedom by restoring national independence on 4 May 1990 on the

basis of continuity of the State. They honour their freedom fighters, commemorate victims of foreign powers, condemn the Communist and Nazi totalitarian regimes and their crimes.

Latvia as democratic, socially responsible and national state is based on the rule of law and on respect for human dignity and freedom; it recognises and protects fundamental human rights and respects ethnic minorities. The people of Latvia protect their sovereignty, national independence, territory, territorial integrity and democratic system of government of the State of Latvia.

Since ancient times, the identity of Latvia in the European cultural space has been shaped by Latvian and Liv traditions, Latvian folk wisdom, the Latvian language, universal human and Christian values. Loyalty to Latvia, the Latvian language as the only official language, freedom, equality, solidarity, justice, honesty, work ethic and family are the foundations of a cohesive society. Each individual takes care of oneself, one's relatives and the common good of society by acting responsibly toward other people, future generations, the environment and nature.

While acknowledging its equal status in the international community, Latvia protects its national interests and promotes sustainable and democratic development of a united Europe and the world.”

Article 1 of the *Satversme*: “Latvia is an independent democratic republic.”

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.”

Article 99 of the *Satversme*: “Everyone has the right to freedom of thought, conscience and religion. The church shall be separate from the State.

Article 110 of the *Satversme*: “The State shall protect and support marriage – a union between a man and a woman, the family, the rights of parents and rights of the

child. The State shall provide special support to disabled children, children left without parental care or who have suffered from violence.”

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.”

The Facts

The case was initiated on the basis of an application by twenty-one members of the 13th convocation of the *Saeima* (hereafter – the applicant). The applicant notes, *inter alia*, that Para 1 of Article 12 of the Istanbul Convention, in interconnection with Para 3 of its Article 4, imposes the obligation upon the State to take the necessary measures to promote changes in the mentality and attitude of the society and would not allow discrimination with respect to persons who do not self-identify with their biological sex but self-identify with another sex (gender).

The applicant holds that the contested norms are incompatible with the family and Christian values that form the constitutional identity of the State of Latvia and are included in the *Satversme*, with the right to freedom of thought and conscience, included in Article 99 of the *Satversme*, as well as with the protection for the traditional family, included in Article 110 of the *Satversme*.

The applicant also notes to possible incompatibility of Para 4 of Article 4 of the Istanbul Convention with the principle of prohibition of discrimination, included in Article 91 of the *Satversme*. I.e., the special measures for prevention of violence, envisaged in the contested norm, could cause differential treatment on the basis of sex.

The applicant is of the opinion that Article 14 of the Istanbul Convention imposes an obligation upon the State to include in programmes of educations issues pertaining to persons, who do not self-identify with their biological sex, for example, transpersons and transsexual persons. This regulation is said to be incompatible with

Article 112 of the *Satversme*, which comprises the right of the child's parent to ensure to their children education that complies with their religious conviction and philosophical views.

The Legal Proceedings

The Constitutional Court has requested the institution, on whose behalf the Istanbul Convention was signed, i.e., the Cabinet, to submit a written reply on the facts of the case and the legal reasoning by 5 October 2020.

The term for preparing the case is **4 January 2021**. 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

Head, Public Relations and Protocol Department
of the Constitutional Court

Ketija.Strazda@satv.tiesa.gov.lv

+ 371 67830749, + 371 26200580