



Satversmes tiesa

Press Release

Case No 2021-11-01

12 April 2021

A case initiated with regard to the provisions that prohibit a soldier from engaging in political parties

On 9 April 2021, the 2nd Panel of the Constitutional Court initiated the case “On the compliance of Section 10(2) and Paragraph 1 of Section 15(1) of the Military Service Law with the first sentence of Article 91 and with Article 102 of the Constitution of the Republic of Latvia”.

CONTESTED PROVISIONS

- Section 10(2) of the Military Service Law: “A soldier has the right to be a member of such associations and foundations which do not have a political nature, as well as to establish associations and foundations for soldiers and participate in other non-political activities if such activities do not interfere with the performance of service duties.”
- Paragraph 1 of Section 15(1) of the Military Service Law: “Soldiers are prohibited from engaging in political activities, joining trade unions, organising strikes and participating in them.”

PROVISIONS OF SUPERIOR LEGAL FORCE

- First sentence of Article 91 of the Constitution (*Satversme*) of the Republic of Latvia (hereinafter – the Constitution): “All human beings in Latvia shall be equal before the law and the courts.”
- Article 102 of the Constitution: “Everyone has the right to form and join associations, political parties and other public organisations.”

FACTS OF THE CASE

The case has been initiated on the basis of an application by Lauris Bočs. The Applicant is a soldier who became a founder and member of a political party. However, according

to the contested provisions, he is not allowed to be engaged in a political party while performing the duties of a soldier.

The Applicant notes that the prohibition imposed by the contested provisions disproportionately restricts his right to the freedom of association, which is enshrined in Article 102 of the Constitution. Allegedly, the means selected by the legislator are not appropriate for achieving the legitimate aim of the restriction of fundamental rights. Besides, more lenient means exist, which would be less restrictive of the individual's fundamental rights provided by Article 102 of the Constitution while allowing to achieve the legitimate aim of the restriction at an equivalent quality level. Namely, the legislator could have adopted a regulation which allows a soldier to be a founder and member of a political party but prohibits them from actively representing their political interests when on service. It is also alleged that the contested provisions violate the principle of legal equality. Professional service soldiers, on the one hand, and national guardsmen, reserve soldiers and the Ministry of the Interior system employees, for whom there is no prohibition on engaging in political parties, on the other hand, are in situations that are similar and comparable according to certain criteria. Allegedly, there is no objective and reasonable rationale for such differential treatment, and it is disproportionate.

COURT PROCEDURE

The Constitutional Court has requested the *Saeima* to submit a written reply stating the facts of the case and the legal reasoning by 9 June 2021.

- The case is to be prepared by 9 September 2021.

The Court will decide on the type of proceedings and the date of hearing once the case has been prepared.

- The decision to initiate the case is available here: https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/04/2021-11-01_lemums_par_ierosinasanu.pdf

This release has been prepared to inform the public about the work done by the Constitutional Court. More detailed information on current issues, cases initiated and decided by the Constitutional Court is available on the website of the Constitutional Court at www.satv.tiesa.gov.lv. You are also invited to follow the information on the Court's *Twitter* account [@Satv_tiesa](https://twitter.com/Satv_tiesa) and *YouTube* [channel](#).

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