



Satversmes tiesa

Press release

Case No. 2021-11-01

10.12.2021

The Constitutional Court terminates legal proceedings in the case regarding provisions which prohibit a soldier from establishing a political party and being a member thereof

On 10 December 2021, the Constitutional Court adopted a judgement in the case No. 2021-11- 01 “On the compliance of Section 10(2) and Para 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”.

THE CONTESTED PROVISION

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.”

In accordance with Para 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 WITH A HIGHER LEGAL FORCE

- The first sentence of Article 91 of the Constitution 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.

THE FACTS OF THE CASE

The case has been initiated on the basis of an application by Lauris Bočs. During the time of submitting the application to the Constitutional Court, he was on professional military service as a soldier. The Applicant had also become 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 believes 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. The contested provisions also allegedly violate the principle of legal equality.

THE CONCLUSIONS OF THE COURT

During the preparation of the case, information was obtained that the Applicant was discharged from professional military service by order of the Commander of the National Armed Forces of 4 June 2021 and that his professional service contract was terminated early. The Applicant himself initiated the termination of his professional military service by submitting an application to the Commander of the National Armed Forces.

The Constitutional Court held that these circumstances may indicate that the infringement of the fundamental rights of the Applicant no longer exists. The absence of infringement of fundamental rights under Para 6 of Section 29(1) of the Constitutional Court Law may be a ground for termination of court proceedings in the case.

The Constitutional Court noted that the proceedings which have been initiated on the basis of a constitutional complaint of a person must be aimed at the protection of fundamental rights – they cannot be used solely to resolve an abstract issue of law. The infringement of a person's subjective rights arising from fundamental rights is an essential element of a constitutional complaint, which directly emphasises the primary aim of a constitutional complaint – to avert the infringement of the fundamental rights of a person.

The Constitutional Court held that the restriction established in the contested provision, which prohibits the establishment of a political party and being a member thereof, is no longer applicable to the Applicant at the time of the examination of the case and does not have any adverse consequences for him.

It was also established that the Applicant had not put forward any arguments, and no considerations could be established from the case-file, which would indicate the need to assess the constitutionality of the contested provisions according to the circumstances which were present at the time when the case was initiated.

Finally, the Constitutional Court also evaluated the fact that the Applicant had applied to the National Armed Forces for his re-admission to professional military service. The Constitutional Court held that the contested norms did not affect the right of the Applicant to seek admission to military service. Likewise, the Constitutional Court did not establish any circumstances which would indicate that the Applicant had been admitted to military service and had re-acquired the status of a soldier.

In the light of the foregoing, the Constitutional Court concluded that it could not be established that the fundamental rights of the Applicant, contained in the first sentence of Article 91 and Article 102 of the Constitution, had been violated.

- **The Constitutional Court decided:**

To terminate legal proceedings in the case No. 2021-11-01 “On the compliance of Section 10(2) and Para 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”.

The decision is not subject to appeal.

The text of the decision is available on the homepage of the Constitutional Court: https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/04/2021-11-01_lemums_par_tiesvedibas_izbeigsanu.pdf

This press release has been prepared to inform the society on the work of the Constitutional Court. More detailed information on the latest developments, cases opened and examined by the Constitutional Court is available on the website of the Constitutional Court www.satv.tiesa.gov.lv. We invite you to follow the information also on the Court's *Twitter* account [@Satv_tiesa](https://twitter.com/Satv_tiesa) and the Court's *YouTube* [channel](#).

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