



Satversmes tiesa

Press release

• Case No 2021-45-01 •

30.12.2021

Another case initiated with respect to provisions governing the
implementation of study programmes at higher education
institutions and colleges in the official language

On 29 December 2021, the 3rd Panel of the Constitutional Court initiated the case “On compliance of Section 56(3), 56(4) and 56(5) of the Law on Institutions of Higher Education with Articles 105, 112 and 113 of the Constitution of the Republic of Latvia”.

THE CONTESTED PROVISIONS

Section 56(3) of the Law on Institutions of Higher Education determines: “The study programmes of higher education institutions and colleges shall be implemented in the official language. In a study programme which is implemented in the official language, not more than one-fifth of the credit point amount of the study programme may be implemented in other official languages of the European Union, taking into account that final and State examinations as well as the writing of a qualification paper, bachelor or master's thesis may not be included in this part.”

Section 56(4) of the Law on Institutions of Higher Education provides: “Study programmes may be implemented in the official languages of the European Union in the following cases:

- 1) if it is laid down in international agreements or within the scope of cooperation provided for in European Union programmes;
- 2) if all study programmes which are part of the same thematic area of education as the study programme to be implemented in the official language of the European Union have received a good or excellent evaluation in the accreditation process of the study field;
- 3) if they are joint study programmes.”

Section 56(5) of the Law on Institutions of Higher Education determines that a study programme, including a joint study programme, may be implemented in any of the official

languages of the European Union or another foreign language if it is necessary for the achievement of the objectives of the study programme in accordance with the Latvian Classification of Education in the following groups of educational programmes: language and culture studies, language programmes. In such case, all study programmes should have received a good or excellent evaluation in the accreditation process of the study field. The Higher Education Quality Commission shall decide on the conformity of the study programme with the groups of educational programmes.

PROVISIONS WITH A HIGHER LEGAL FORCE

Article 105 of the Constitution of the Republic of Latvia (hereinafter — the Constitution): “Everyone has the right to own property. Property shall not be used contrary to the interests of the public. Property rights may be restricted only in accordance with law. Expropriation of property for public purposes shall be allowed only in exceptional cases on the basis of a specific law and in return for fair compensation.”

Article 112 of the Constitution is the following: “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 113 of the Constitution is the following: “The State shall recognise the freedom of scientific research, artistic and other creative activity, and shall protect copyright and patent rights.”

THE FACTS OF THE CASE

The case has been initiated on the basis of an application submitted by twenty Members of the 13th Parliament (hereinafter referred to as the Applicant).

The contested provisions establish a general prohibition to provide higher education services in a foreign language, with certain exceptions. Thus, the right of private higher education institutions of Latvia, the Member States of the European Union and third countries, as well as public higher education institutions to own property, which is enshrined in Article 105 of the Constitution, is infringed.

The contested provisions also infringe the academic freedom of private higher education institutions, teaching staff and students enshrined in Articles 112 and 113 of the

Constitution, as well as the autonomy of private higher education institutions related thereto. Namely, the contested provisions restrict the possibilities of private higher education institutions and teaching staff to develop and implement study programmes in foreign languages, as well as the right of students to choose study programmes in foreign languages.

The Applicant holds that the contested norms do not remedy the shortcomings indicated in the judgment of the Constitutional Court of 11 June 2020 in case No 2019-12-01 “On compliance of the third sentence of Section 5(1), Section 56(3) and Para 49 of Transitional Provisions of the Law on Institutions of Higher Education with Articles 1, 105, and 112 of the Constitution of the Republic of Latvia”, a proportionate balance between various interests has not been achieved and that new infringements of the Constitution have been committed.

JUDICIAL PROCEDURE

The Constitutional Court has requested the institution which issued the contested act, i.e., the Parliament, to submit to the Constitutional Court its written reply presenting the facts of the case and legal reasoning by **1 March 2022**.

- The term for preparing the case is **29 May 2022**.

The Court shall decide on the procedure and date for hearing the case after the case is prepared.

- The decision on initiation of the case is available here: https://www.satv.tiesa.gov.lv/web/viewer.html?file=https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/12/2021-45-01_lemums-par-lietas-ierosinasanu-1.pdf#search=

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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A video [on the Constitutional Court](#).