



THE CONSTITUTIONAL COURT OF THE REPUBLIC OF LATVIA

JUDGMENT

on behalf of the Republic of Latvia

Rīga, 13 February 2025

Case No. 2024-06-01

The Constitutional Court composed of the chairperson of the court hearing Irēna Kucina, judges, Anita Rodiņa, Jānis Neimanis, Jautrīte Briede, Veronika Krūmiņa, Mārtiņš Mits, and Juris Juriss,

pursuant to the constitutional complaint submitted by the political party “Social Democratic Party “Harmony””,

on the basis of Article 85 of the Constitution of the Republic of Latvia and Section 16, Clause 1, Section 17, Paragraph one, Clause 11, as well as Section 19.² and Section 28.¹ of the Constitutional Court Law,

on 14 January 2025, in the written procedure, examined the following case:

“On Conformity of Section 5.¹ of the Pre-election Campaign Law with Article 100 of the Constitution of the Republic of Latvia”.

Establishing Part

1. On 22 June 2023, the *Saeima* adopted the law “Amendments to the Pre-election Campaign Law” which entered into force on 1 January 2024 and was supplemented by Section 5.¹ to the Pre-election Campaign Law. Section 5.¹ of the Pre-election Campaign Law stipulates the following:

“(1) During the pre-election campaign period, paid pre-election campaign materials shall be placed in mass media radio and television programmes, public outdoor and indoor areas, periodicals (newspapers and magazines), bulletins, books, and other periodicals produced by print technology and on the Internet and paid pre-election campaign shall be conducted in the official language (including the Latgalian written language) or the Livonian language.

(2) During the pre-election campaign period before the elections to the European Parliament and the local government councils, the pre-election campaign materials referred to in Paragraph one of this Section may include or the pre-election campaign may be ensured with translation in the official languages of the European Union Member States provided that the use of the official language (including the Latgalian written language) or the Livonian language may not be lesser or narrower than the content in the foreign language either aurally or visually.

(3) If the violation of Paragraph one or two of this Section is detected, the director of the Corruption Prevention and Combating Bureau has an obligation to assign the unrelated person to transfer the financial resources used for unlawful pre-election campaign to the State budget within 30 days. Upon a motivated request of the relevant person, the director of the Corruption Prevention and Combating Bureau may divide the repayment of the financial resources into periods or extend the period of repayment of financial resources but for no longer than 90 days.”

2. The political party “Social Democratic Party “Harmony”” which is the submitter of the application (hereinafter – the applicant) considers that Section 5.¹ of the Pre-election Campaign Law fails to conform to Article 100 of the Constitution of the Republic of Latvia.

Section 5.¹ of the Pre-election Campaign Law restricts the right of the applicant to freedom of expression, as it prohibits display of paid pre-election campaign materials and conduct of paid pre-election campaigns in a foreign language which is not an official language of the European Union. In addition, it is forbidden to conduct such campaigns in an official language of the European Union without a translation into the official language. The use of a language other than an official language of the European Union is only allowed in private face-to-face conversations or on social networks. In fact, the restriction on fundamental rights is close to a complete ban on the use of minority languages in pre-election

campaigns, because the number of voters is so large that they can only be reached through mass media. In order to reach minority voters effectively, a political party must communicate in the language of the minority.

The applicant does not dispute that the restriction on fundamental rights is imposed by a law adopted according to appropriate procedures. It is stated in the application that the legitimate objectives of the restriction on fundamental rights could be the protection of the democratic structure of the state and the rights of others. However, the applicant has doubts about these objectives, as minority languages strengthen, rather than weaken, democracy.

Such restriction on fundamental rights is not appropriate for the achievement of the legitimate objectives, as it undermines the freedom of expression of candidates, the opportunities for minority voters to receive information, the diversity of political debates, as well as the interest of voters in the elections. Section 5.¹ of the Pre-election Campaign Law does not form a unified communication space, as it allows the use of the Livonian language. Minority languages would help attract voters, who would then also engage in the main political debates, which take place in the official language.

There are alternative measures for achieving the legitimate objectives that would be equally effective. Allowing voters to choose campaigns that are interesting and comprehensible to them could be one of such measures. There could also be the obligation to translate the content of campaigns into the official language.

The benefit that the society gains from Section 5.¹ of the Pre-election Campaign Law does not outweigh the harm caused to the rights of the individual. During the pre-election period, enhanced requirements are imposed for the protection of the freedom of expression and the discretionary power of the legislator is narrower. The freedom of choice with regard to the form of dissemination of political ideas corresponds to the openness and pluralism inherent in a democratic society. The use of a minority language does not give its user an unjustified advantage, but contributes to the integration of society. There are certain groups of people who, because of their age or living conditions, do not speak the language at a level that allows them to participate fully in political debates.

3. The authority which issued the contested act, i.e. the *Saeima*, considers that Section 5.¹ of the Pre-election Campaign Law conforms to Article 100 of the Constitution of the Republic of Latvia.

The legitimate objectives of the restriction on fundamental rights contained in Section 5.¹ of the Pre-election Campaign Law are the protection of the democratic structure of the state, public security, and the rights of others. The use of the official language in Latvia is still affected by the consequences of forced Russification. Section 5.¹ of the Pre-election Campaign Law contributes to the use of the Latvian language as the language of common communication and democratic participation for the society, thus strengthening the constitutional role of the official language and reducing the division of society. In the current geopolitical context, strengthening the use of the official language is particularly important to mitigate the national security risks posed by active information influence measures of Russia.

Section 5.¹ of the Pre-election Campaign Law ensures that during the pre-election campaign period, debate on matters of public importance is primarily held in the official language. The use of the Livonian language in pre-election campaigns is not an obstacle to the creation of a unified information space, as it strengthens the identity of Latvia. Section 5.¹ of the Pre-election Campaign Law also mitigates the risks of disinformation and propaganda from abroad.

The legitimate objectives cannot be achieved by alternative measures. If the content of pre-election campaigns were in a foreign language, but the official language was only the language into which the content was translated, this would call into question the importance of the official language. Translations can vary widely both in quality and accuracy, lead to misunderstandings, and undermine the integrity of the democratic debate. If the content of pre-election campaigns were always available in a foreign language, it would no longer serve as an incentive to improve knowledge of the official language and would generally make linguistic integration more difficult. Similarly, allowing, for example, the use of Russian during the pre-election period would not mitigate national security risks, because in the current geopolitical situation this language plays a key role in spreading disinformation and propaganda.

Section 5.¹ of the Pre-election Campaign Law does not provide for a complete ban on the use of minority languages in pre-election campaigns. This restriction does not apply to unpaid pre-election campaigns, for example, individual face-to-face communication with voters, or to pre-election debates. In

addition, pre-election campaigns before the elections to the European Parliament and the local government councils may also be conducted in the official languages of the European Union in order to respect the rights of citizens of the European Union, contribute to the learning of the official languages of the European Union, and strive for full integration of Latvia into the European cultural space.

4. The State Security Service, i.e. the invited party, agrees with the opinion expressed by the *Saeima*.

The State Security Service also points out that information measures aimed at influencing Latvian public opinion according to Russian interests play an important role in the non-military influence operations of Russia. These measures are also used to disrupt a normal election process in other countries and are particularly effective in the Russian-speaking part of society. The use of Russian is crucial in these events. Russia has instrumentalised the Russian language institute to achieve its foreign and geopolitical goals. Russia has long sought to strengthen the position of the Russian language in Latvia and thus divide the Latvian society.

Section 5.¹ of the Pre-election Campaign Law reduces the chances of destabilising the domestic political situation. The increase in the use of the Latvian language in the public domain contributes to the creation of a unified information space and prevents the spread of misinformation in foreign languages. Section 5.¹ of the Pre-election Campaign Law is aimed at reducing the possibility of dividing the Latvian society by exposing a part of it to the influence of foreign-language content of pre-election campaigns which can lead to enmity and polarisation of society. Social cohesion is achieved by maintaining a unified information space based on the official language. Moreover, the contested norm does not prevent political forces from communicating with members of ethnic minorities in a foreign language in any form other than paid pre-election campaigns.

In the election to the European Parliament of 2024, political parties actively campaigned in person and on social media in minority languages that are not official languages of the European Union. The State Security Service does not agree that the absence of paid pre-election campaign materials in minority languages would diminish public interest in the elections and points out that the Latvian information space is still saturated with content in Russian.

5. The Corruption Prevention and Combating Bureau, i.e. the invited party, considers that Section 5.¹, Paragraph three of the Pre-election Campaign Law is not attributable to the applicant. The addressee of this norm is not a political party, but an unaffiliated person who conducts pre-election campaigns on his or her own behalf. Therefore, no infringement of the fundamental rights of the applicant can be established in this respect.

The Corruption Prevention and Combating Bureau agrees that the restriction on fundamental rights has the legitimate objectives specified by the *Saeima*. As regards the proportionality of the restriction, the Corruption Prevention and Combating Bureau points out that Section 5.¹, Paragraphs one and two of the Pre-election Campaign Law do not prevent the applicant from expressing its political views or ideas, as they allow, for example, individual communication with voters in minority languages, as well as the use of official languages of the European Union.

6. The representative of Latvia in international human rights institutions Elīna Luīze Vītola, i.e. the invited party, points out that a country may regulate the use of languages as a form in which ideas are expressed during pre-election campaigns, but at the same time it must ensure that the public is informed of the electoral process, the positions of political parties, and the right of everyone to free elections.

According to the case law of the European Court of Human Rights, despite the usual narrow margin of discretion during pre-election campaigns, countries are entitled, where an urgent societal need so requires, to impose restrictions on the use of languages other than the official language. Also the European Commission for Democracy through Law (Venice Commission) and the Advisory Committee of the Framework Convention for the Protection of National Minorities (hereinafter – the Advisory Committee) have not concluded that countries should not be entitled to impose restrictions on the use of foreign languages in pre-election campaigns. The recommendations of international institutions focus on making information on elections, their conduct and the rights of voters as widely available as possible. A country must balance the protection of the official language and possibly other societal needs with the rights of candidates and the electorate representing minority interests to exchange information and views during the pre-election period. In doing so, a country must strive to achieve a balance that does not deprive either group of substantive rights and ensures the rights of candidates

representing minority interests to candidate effectively in elections, to express their ideas in pre-election campaigns, and to address the voters.

In the cases *Şükran Aydın and others v. Turkey* and *Mestan v. Bulgaria*, the European Court of Human Rights recognised that countries have a certain margin of discretion to regulate the use of languages in pre-election campaigns, but found an infringement in the circumstances of the respective cases. Comparing those cases with the present case, the protection of the official language as an element of the protection of the rights of others should be considered the legitimate objective served by the restriction on the use of languages other than the official language in pre-election campaigns. Although the European Court of Human Rights questioned this in the abovementioned cases, the protection of the democratic structure of the state and public security could also be considered as the legitimate objectives of the restriction on fundamental rights, taking into account the concerns of the *Saeima* about the increased interest of third countries in the electoral processes taking place in Latvia, as well as attempts to influence these processes and the wider society through disinformation. According to these legitimate objectives, the margin of discretion of Latvia could be extended. Another difference between the present case and the cases of the European Court of Human Rights is that Section 5.¹ of the Pre-election Campaign Law does not provide for a complete ban on pre-election campaigns in a language other than the official language. If the Constitutional Court were to conclude that the restriction contained in Section 5.¹ of the Pre-election Campaign Law is such that it essentially prevents political parties from informing voters in the language they understand best, the legitimate objectives indicated by the *Saeima* should be taken into account.

Section 5.¹ of the Pre-election Campaign Law has been criticised by the Advisory Committee and the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe for alleged non-conformity with international commitments of Latvia. However, it should be noted that the abovementioned institutions have referred to sources that deal with substantively different situations and allow a wide range of options for regulating language matters during pre-election campaigns, as long as persons belonging to national minorities can effectively express their views, obtain information on elections in national minority languages, and participate in democratic processes.

7. The Ombudsman, i.e. the invited party, considers that Section 5.¹ of the Pre-election Campaign Law conforms to Article 100 of the Constitution of the Republic of Latvia.

The restriction on fundamental rights contained in the contested norm has several legitimate objectives, i.e. the protection of the democratic structure of the state, public security, and the rights of others. The restriction on fundamental rights is appropriate for the achievement of the legitimate objectives, i.e. the protection of the democratic structure of the state and the rights of others, as the use of the official language in the public domain is expanding. With regard to the protection of public security, the Ombudsman notes that strengthening the official language is essential to mitigate national security risks in the current geopolitical context, but is critical about the statement that the availability of paid pre-election campaign content in the official language could contribute to resilience to disinformation measures. It cannot be excluded that a certain share of the voting population will form its political position outside the State-funded pre-election campaigns. Although strengthening the official language skills can contribute to the involvement of individuals in public debate and civic participation processes, language skills need to be strengthened mainly within the framework of the official language-based education system.

Translation of pre-election campaign materials into the official language would not achieve the legitimate objectives, i.e. the protection of the democratic structure of the state and public security, to the same extent, as the availability of foreign language content would not be reduced and the use of the official language would not be promoted. However, the legitimate objective, i.e. the protection of the rights of others, would be achieved to the same extent by this measure, as it would ensure that everyone has access to pre-election campaign materials in the official language. Translation quality risks can be prevented through national supervisory measures. A less restrictive measure on the fundamental rights of the individual could also be the obligation to revise Section 5.¹ of the Pre-election Campaign Law according to changes in geopolitical circumstances.

The benefit that the society gains from strengthening the constitutional role of the official language is not proportionate to the risk posed by the restriction on fundamental rights laid down in the contested norm to pluralism. The use of language, along with other elements of pre-election campaigns, can act as a symbol of the role of a political party in representing the interests of a particular community and its belonging to that community. The ability of political parties to

address their voters directly and explicitly is part of pluralism that ensures the free will of the electorate. If the use of foreign languages does not affect the rights of others to use the official language in their communications during pre-election campaigns, it should be covered by an exception that would allow the use of a foreign language.

Section 5.¹ of the Pre-election Campaign Law poses a high risk to the protection of democratic pluralism. The balance of interests is clearly achieved when the State budget is used to pay for pre-election campaigns. However, the scope of Section 5.¹ of the Pre-election Campaign Law is broader and the risks should be assessed in a nuanced manner depending on the type of pre-election campaign material, the manner of its placement or distribution, and the target audience. The assessment of proportionality should also take into account possible differences in interpretation of the legal norms which may deter persons from exercising their right to freedom of expression.

8. *Mg. iur. Iveta Kažoka, i.e. the invited party,* believes that the appropriateness of the restriction on fundamental rights, considering the fundamental values of a democratic society, depends on the form of pre-election campaigns and the reasonable application of the restriction. The scope of Section 5.¹ of the Pre-election Campaign Law is not limited to paid services, but also covers other forms of pre-election campaigns. The text of the norm uses both the term “paid pre-election material” which usually means political advertisements and the term “paid pre-election campaign” which can mean both political advertising and any other expression that requires money.

Language restrictions can be imposed on paid political advertisements, as they do not concern spontaneous political expression by citizens. The least restrictive forms of pre-election campaigns would be those that are closer to people-to-people communication in everyday life or on the Internet, for example, speeches, slogans, or songs at public events, comments in political debates.

Concluding Part

9. The pending case has been initiated following a constitutional complaint of the applicant, i.e. a political party, on conformity of Section 5.¹ of the Pre-election Campaign Law with Article 100 of the Constitution of the Republic of Latvia.

According to Section 19.², Paragraph one of the Constitutional Court Law, a constitutional complaint may be submitted by any person who considers that their fundamental rights are infringed. Infringement of fundamental rights of the individual may be established if the fundamental rights are included in the Constitution of the Republic of Latvia and the contested norm directly infringes them, creating legal effects (*cf. Paragraph 12 of the decision of the Constitutional Court of 30 May 2023 on the termination of proceedings in Case No. 2022-19-01*).

Section 5.¹, Paragraphs one and two of the Pre-election Campaign Law regulate the use of languages in paid pre-election campaigns, while Paragraph three determines the legal effects for an unrelated person for the violation of Paragraph one or two of this Section. According to Section 1, Clause 2 of the Pre-election Campaign Law, an unrelated person is a legal or natural person not related to political parties or their associations, or a registered association of such persons who are conducting a pre-election campaign in their name.

In view of the above, the Constitutional Court finds that the legal effects provided for in Section 5.¹, Paragraph three of the Pre-election Campaign Law do not apply to the applicant, i.e. a political party. Since the aforementioned norm cannot infringe the fundamental rights of the applicant, in accordance with Section 29, Paragraph one, Clause 6 of the Constitutional Court Law, it is impossible to continue the proceedings in this part of the case.

Consequently, the proceedings in the part regarding conformity of Section 5.¹, Paragraph three of the Pre-election Campaign Law with Article 100 of the Constitution of the Republic of Latvia should be terminated.

10. In the present case, the conformity of several legal norms with the right to freedom of expression enshrined in Article 100 of the Constitution of the Republic of Latvia has been contested; therefore, it is necessary to determine the most effective approach to the assessment of the conformity of the contested legal norms.

Section 5.¹, Paragraph one of the Pre-election Campaign Law establishes a general regulation that applies to the pre-election campaign period of any elections, i.e. paid pre-election campaigns before the elections to the *Saeima*, the European Parliament, and local government councils, which covers paid pre-election campaign materials, shall be conducted in the official language, including the Latgalian written language and the Livonian language. However, in Paragraph two of this Section, the legislator has provided for an exception for the elections

to the European Parliament and local government councils, when the translation of the content of the campaign into the official languages of the European Union is allowed. As stated in the abstract to the draft law (*see the abstract to draft law No. 93/Lp14 “Amendments to the Pre-election Campaign Law”*. Available at: *saeima.lv*) and in the letter of response by the *Saeima*, Section 5.¹, Paragraphs one and two of the Pre-election Campaign Law (hereinafter – the contested norms) seek to strengthen the position of the official language in all areas of public life and to prevent parallel language communication that may divide society. These objectives apply to the pre-election campaign period before any elections. Thus, it can be concluded from the structure of the aforementioned regulation and the objectives of its adoption that the contested norms constitute a single legal regulation which generally determines the use of the official language in pre-election campaign materials and in pre-election campaigns before any elections.

The applicant submitted the constitutional complaint during the pre-election campaign period before the election to the European Parliament. It follows from the application that the applicant objects to the regulation of the use of languages during the pre-election campaign period before any elections. The *Saeima* has also provided a letter of response and the invited parties have shared their views on the use of languages in the pre-election campaign period before any elections. In view of the above, as well as the task of the Constitutional Court to eliminate, as effectively as possible, the regulation that fails to conform to the Constitution of the Republic of Latvia or other legal norms of a higher legal force, the Constitutional Court will assess the conformity of the contested norms with the Constitution of the Republic of Latvia in relation to any elections.

The first sentence of Article 100 of the Constitution of the Republic of Latvia establishes the right of an individual to freedom of expression, while the second sentence – the prohibition of censorship. The present case does not concern censorship issues.

Consequently, the Constitutional Court will assess the conformity of the contested norms as a single legal regulation with the first sentence of Article 100 of the Constitution of the Republic of Latvia.

11. The first sentence of Article 100 of the Constitution of the Republic of Latvia states the following: “Everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express his or her views.”

Freedom of expression is a value of a democratic state, ensuring public involvement in the political process, and is closely associated with the right to take part in free elections. The scope of the right to freedom of expression also covers pre-election campaigns (*cf. Paragraphs 6 and 9 of the judgment of the Constitutional Court of 22 February 2010 in Case No. 2009-45-01 and Paragraph 17 of the decision of the Constitutional Court of 27 May 2022 on the termination of proceedings in Case No. 2021-34-01*).

In order to ascertain the content of fundamental human rights enshrined in the Constitution of the Republic of Latvia, international commitments of Latvia in the field of human rights must be also taken into account. As recognised by the European Court of Human Rights, political parties enjoy the protection of the right to freedom of expression enshrined in Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (*see Paragraph 89 of the judgment of the Grand Chamber of the European Court of Human Rights of 13 February 2003 in Refah Partisi (the Welfare Party) and Others v. Turkey, application No. 41340/98 a.o.*). The European Court of Human Rights has also recognised that the right to freedom of expression includes the freedom to receive and impart information and ideas in any language, allowing participation in the public exchange of all forms of cultural, political, and social information and ideas. In such context, language as a means of expression thus enjoys the protection of the right to freedom of expression (*see Paragraph 57 of the judgment of the European Court of Human Rights of 2 May 2023 in Mestan v. Bulgaria, application No. 24108/15*).

Political parties, by displaying pre-election campaign materials and conducting pre-election campaigns, exercise the right to freedom of expression, and the language used in pre-election campaigns as a means of expression falls within the scope of the first sentence of Article 100 of the Constitution of the Republic of Latvia.

The applicant is a political party that has participated in the elections to the *Saeima*, the European Parliament, and local government councils. It also participated in the election to the European Parliament of 8 June 2024, when the contested norms were first applied, and conducted pre-election campaigns before that election. The applicant indicates that a significant share of its voters are Russian-speaking members of society and, therefore, prior to the entry into force of the contested norms it had distributed pre-election campaign materials and conducted pre-election campaigns in Latvian and Russian. The contested norms

prohibit the distribution of pre-election materials and conducting of paid pre-election campaigns in Russian and other foreign languages which are not the official languages of the European Union.

Consequently, the contested norms restrict the right of the applicant to freedom of expression.

12. In assessing the constitutionality of the restriction on fundamental rights, it must first be ascertained whether the restriction was imposed by a legal norm adopted according to appropriate procedures and in a legislative process which complies with the principle of good legislation.

On 22 June 2023, the *Saeima* adopted the law “Amendments to the Pre-election Campaign Law” and thus supplemented the Pre-election Campaign Law with Section 5.¹ on the use of languages in pre-election campaigns. The Law was promulgated on 5 July 2023 in the official gazette *Latvijas Vēstnesis* No. 128 and entered into force on 1 January 2024.

The Constitutional Court has no doubts and also the parties to the case have not raised any objections that the contested norms have been adopted and promulgated according to the procedures laid down in the Constitution of the Republic of Latvia and the Rules of Order of the *Saeima*, are available in accordance with the requirements of laws and regulations, and are sufficiently clearly formulated to enable a person to understand the content of the rights and obligations arising therefrom and to foresee the consequences of the application thereof, as well as they have been adopted according to the procedure which complies with the principle of good legislation.

Therefore, the restriction on fundamental rights contained in the contested norms is established by a legal norm adopted according to appropriate procedures.

13. Any restriction on fundamental rights must be based on the circumstances and the reasons why it is necessary, because the restriction is imposed for an important interest, i.e. a legitimate objective.

The *Saeima* points out that the legitimate objectives of the restriction on fundamental rights provided for in the contested norms are the protection of the democratic structure of the state, public security, and the rights of others. Taking into account the historical experience of Latvia and the fact that the use of the Latvian language is currently insufficient, as well as the specific geopolitical

situation, the State should take positive measures and strengthen the protection of the position of the official language, including its use in pre-election campaigns. According to the applicant, the legitimate objectives of the restriction on fundamental rights could be the protection of the democratic structure of the state and the rights of others; however, it has doubts about these objectives, since minority languages do not weaken democracy.

13.1. Public security may also justify the restriction on the freedom of expression by regulating the use of languages in certain ways, taking into account the circumstances relating to security risks. The security policy of any country is affected by its geopolitical position. The security policy of Latvia is subordinated to the fact that Russia, whose current ideology is geared towards war and aggression against its neighbours, is also a neighbouring country of Latvia. The State Security Service and the Constitution Protection Bureau constantly point to the threat to public security and the democratic structure of the state that is posed by Russia as a neighbouring country of Latvia (e.g. *the Public Report of the State Security Service on the Activities of the State Security Service in 2023*. Available at: vdd.gov.lv; and *the Annual Activity Report for 2023 of the Constitution Protection Bureau*. Available at: sab.gov.lv).

Russian politics and propaganda have developed the ideological concept of the “Russian world”, i.e. the idea that the Russian world extends beyond Russia to all the borders of the former Russian Empire and the Soviet Union. Russia uses the protection of the interests of its “compatriots” as a pretext to interfere in the internal affairs of other countries, use military force, and violate their territorial integrity (cf. *Russia’s Footprint in the Nordic-Baltic Information Environment. Report 2016/2017*. Rīga: NATO Strategic Communications Centre of Excellence, 2018, p. 8. Available at: stratcomcoe.org).

For many years, Russia has been using the “policy of compatriots” to pave the way for a hybrid war against Ukraine. The methods used in Ukraine before the events of 2014 and 2022 have been also used by Russia in Latvia for many years (cf. *Kudors A., Russia and Latvia. A Case of Sharp Power*. New York: Routledge, 2024, p. 93). Since 1992, Russia has declared Latvia as its “natural sphere of interests and influence” or “national security zone” where it has “special responsibilities and obligations” (see “*Paplašināta Eiropa un tās kaimiņu politika: Austrumu dimensija*” [*An Enlarged Europe and its Neighbourhood Policy: Eastern Dimension*]. Rīga: Latvian Institute of International Affairs, 2005, p. 33. Available at: liia.lv). The fact that Russia is constantly interested in the processes

taking place in Latvia is also evidenced by the 2024 report of the Russian Ministry of Foreign Affairs on infringements of rights of Russian citizens and compatriots abroad, which describes Latvia as one of the most “Russophobic” countries (*see the 20 December 2024 regular report of the Russian Ministry of Foreign Affairs on infringements of rights of Russian citizens and compatriots abroad. Available at: mid.ru*). Russia has been involved in a wide range of information influence measures to increase tensions in the Latvian society, increase distrust in public authority and politics, and also create conditions for a reorientation of Latvian politics towards Russia. Hence, national security of Latvia has long been threatened by the information influence measures carried out by its neighbour Russia.

13.2. Russia, through political organisations oriented towards the Russian-speaking part of society, has for a long time been trying to strengthen the position of the Russian language in Latvia in order to hinder the integration of this population into the Latvian society, as well as to make it easier to manipulate them through propaganda and disinformation (*see the opinion of the State Security Service*). As part of the Russian “policy of compatriots”, the Russian language is used, alongside its normal linguistic functions, as a unifying element of the pro-Kremlin segment of society and one of the means to achieve the political goals of Russia, i.e. to divide the Latvian society and to strengthen, maintain, and expand the community that supports the narratives of the Russian government and its aggressive policies. Thus, it can be concluded that the Russian language can be used as a carrier of Russian ideology in the current geopolitical situation and, therefore, the regulation of the use of languages in the present case is an important aspect for the national security of Latvia.

13.3. In order to protect its democratic structure and guarantee the stability of its democratic system, a country may need to take special self-defence measures (*cf. Paragraph 20.2 of the judgment of the Constitutional Court of 29 June 2018 in Case No. 2017-25-01*). Elections are an essential democratic process in which the people exercise their sovereign power. One of the elements characterising a democratic structure of the state is free elections, and this principle also applies to the pre-election period (*see Paragraph 17 of the judgment of the Constitutional Court of 29 June 2018 in Case No. 2017-25-01 and Paragraph 10.2 of the judgment of the Senate of 3 November 2006 in Case No. SA-5/2006*). The contested norms are aimed at reducing the impact of Russian information influence measures during the pre-election campaign period. The Russian information

influence measures are particularly targeted at countries where elections are planned with the aim of influencing public opinion and the political course in favour of Russian interests (*see the Annual Activity Report for 2023 of the Constitution Protection Bureau. Available at: sab.gov.lv*). Therefore, it is important that during the pre-election campaign period the possibility of spreading messages supporting the aggressive policy of Russia is reduced, which has a negative impact on those Latvian citizens who would like to see the political development of Latvia towards Russia.

The contested norms protect public security and the democratic structure of the state by reducing the use of foreign languages and strengthening the use of the Latvian language, including the Latgalian written language and the Livonian language, in pre-election campaigns. The Latvian language is an integral part of the constitutional identity of the State of Latvia and the national identity of Latvia is also formed by the Latgalian written language as a historical variant of the Latvian language and the Livonian language which has been granted special national protection as the only indigenous (autochthonous) language (*cf. Paragraph 22 of the judgment of the Senate of 2 March 2020 in Case No. SA-1/2020*).

It can be concluded that the restriction on fundamental rights provided for in the contested norms is related to mitigation of the risks of threat to national security and, consequently, to the democratic structure of the state in the current geopolitical situation and is aimed at the protection of public security and the democratic structure of the state.

Consequently, the legitimate objectives of the restriction on fundamental rights contained in the contested norms are the protection of public security and the democratic structure of the state.

14. When ascertaining whether the restriction on fundamental rights is proportionate, the Constitutional Court first examines whether the restriction is appropriate to achieve the legitimate objectives, i.e. whether the legitimate objectives can be achieved by the measures chosen.

Due to the large Russian-speaking immigrant community that arrived during the occupation period, the Latvian society still finds itself in segregated information spaces (*see Paragraph 30.3 of the judgment of the Constitutional Court of 10 July 2024 in Case No. 2022-45-01*). The State Security Service has established that Russian information influence measures have been effective in

influencing Latvian public opinion. This is evidenced, for example, by the support expressed by part of the society for the Russian full-scale invasion of Ukraine, which in some cases has also included calls for violence and justified the killing of civilians (*see the Public Report of the State Security Service on the Activities of the State Security Service in 2022. Available at: vdd.gov.lv*).

In order to protect public security and the democratic structure of the state against foreign information influence, strengthening the use of Latvian as a common language is one of the basic elements (*see the Public Report of the State Security Service on the Activities of the State Security Service in 2023. Available at: vdd.gov.lv*). Maintaining a unified information space based on the official language reduces the chances of dividing the Latvian society and of some of it being influenced by the content of pre-election campaigns disseminated in foreign languages. The increase in the use of Latvian and the decrease in the use of foreign languages, including Russian, in the public domain reduces the possibility of using foreign languages for information influence measures (*see the opinion of the State Security Service*).

The contested norms reduce the use of foreign languages during the pre-election campaign period and increase the use of the official language. They ensure that paid pre-election campaigns take place in a space based on the official language, thus reducing the influence of Russian disinformation and propaganda, the possibility of manipulating information and interfering in the democratic processes of Latvia. The restriction on fundamental rights contained in the contested norms is aimed at strengthening national security and thus protects public security and the democratic structure of the state.

Consequently, the restriction on fundamental rights contained in the contested norms is appropriate to achieve the legitimate objectives, i.e. the protection of public security and the democratic structure of the state.

15. When assessing whether the measures chosen are necessary to achieve the legitimate objectives, the Constitutional Court verifies whether such objectives could be achieved by other measures which would be less restrictive of the rights of the individual and would be equally effective.

The applicant proposes two less restrictive measures of the rights of the individual in achieving the legitimate objectives. The *Saeima*, on the other hand, considers that these alternative measures would not achieve the legitimate objectives to the same extent.

15.1. According to the applicant, democratic discourse in the official language could be more effectively maintained with more attractive tools for pre-election debates, rather than restrictions on the use of languages. The *Saeima* points out that this alternative would not reduce national security risks, as it would allow the use of languages such as Russian in paid pre-election campaigns, which in the current geopolitical situation plays a particular role in spreading disinformation and propaganda.

The State has the right to regulate the use of languages in pre-election campaigns and, where necessary, to impose proportionate restrictions (*see Paragraph 55 of the judgment of the European Court of Human Rights of 22 January 2013 in Şükran Aydın and Others v. Turkey, application No. 49197/06 a.o. and Paragraph 60 of the judgment of the European Court of Human Rights of 2 May 2023 in Mestan v. Bulgaria, application No. 24108/15*). If the legislator has decided to regulate the use of languages in pre-election campaigns in order to protect public security and the democratic structure of the state, then non-regulation of this matter may not be considered an alternative measure.

15.2. It is stated in the application that a less restrictive measure on fundamental rights would also be the possibility to conduct paid pre-election campaigns in any language, with translation into the official language.

The legislator has already determined that foreign languages may be used in paid pre-election campaigns in certain cases and according to certain procedures. Section 5.¹, Paragraph two of the Pre-election Campaign Law provides that paid pre-election campaigns before the elections to local government councils and the European Parliament may be conducted in the official language with translation into the official languages of the European Union. However, the alternative put forward by the applicant is essentially aimed at extending this exception to all elections and also to foreign languages which are not the official languages of the European Union.

Article 101, Paragraph one of the Constitution of the Republic of Latvia enshrines the right of every citizen of Latvia to participate in the work of the State. The fact that these rights are granted only to Latvian citizens reflects the principle of national sovereignty (*see Kusiņš G., 101. panta komentārs [Comment on Article 101]. Book: Balodis R. (scientific editor). Latvijas Republikas Constitutions komentāri. VIII nodaļa. Cilvēka pamattiesības [Comments on the Constitution of the Republic of Latvia. Chapter VIII. Fundamental Human Rights]. Rīga: Latvijas Vēstnesis, 2011, p. 383*). Article 101, Paragraph two of the

Constitution of the Republic of Latvia, the Election to the European Parliament Law, and the Law on the Election of Local Government Councils ensure compatibility of the constitutional system of Latvia with the European Union law, namely, Articles 39 and 40 of the Charter of Fundamental Rights of the European Union, which guarantee the right of citizens of the European Union to vote and to stand as a candidate at elections to the European Parliament and local government councils. Thus, the elections to the European Parliament and local government councils, unlike the elections to the *Saeima*, are attended not only by Latvian citizens, but also by citizens of the European Union.

The use of languages in pre-election campaigns provided for in the contested norms is related to the persons who are entitled to vote and stand as candidates at elections, i.e. only Latvian citizens participate in the *Saeima* elections and paid pre-election campaigns must be conducted in the official language, whereas citizens of the European Union also participate in the elections to the European Parliament and local government councils and the content of pre-election campaigns conducted in the official language may be translated into the official languages of the European Union. Latvia belongs to the European cultural space, in which the Latvian language, which is one of the official languages of the European Union, forms the identity of Latvia (*see Paragraph 30 of the judgment of the Constitutional Court of 9 February 2023 in Case No. 2020-33-01*). Thus, the contested norms ensure that paid pre-election campaigns take place in a unified space based on the official language, but at the same time they also respect the rights of citizens of the European Union in the elections to the European Parliament and local government councils by providing for the possibility of translating the content of pre-election campaigns into the official languages of the European Union.

The legal framework for the use of different languages may also differ depending on the impact of a particular language on public security and the democratic structure of the state. As already acknowledged, in the current geopolitical situation Russian can be used as a tool to achieve the geopolitical goals of Russia. The consequences of the Russian “policy of compatriots” in Ukraine show that Russian support for the use of the Russian language hampers the functioning of democracy and increases security risks (*see: Kudors A., Russia and Latvia. A Case of Sharp Power. New York: Routledge, 2024, p. 95*).

A wider use of foreign languages in paid pre-election campaigns, i.e. the possibility to translate the content of pre-election campaigns also before the

elections to the *Saeima* or to translate into languages other than the official languages of the European Union before the elections to the European Parliament and local government councils, would not reduce the impact of Russian information influence measures to the same extent. If pre-election campaigns were always conducted in both the official language and a foreign language, the use of foreign languages would not be narrowed, the creation of a unified information space based on the official language as the common language of society would not be promoted, and the possibilities of dividing society would not be reduced.

Consequently, such solution as the right to use any foreign language in paid pre-election campaigns, provided that a translation into the official language is ensured, would not achieve the legitimate objectives to the same extent.

15.3. It follows from the materials for drafting law No. 93/Lp14 “Amendments to the Pre-election Campaign Law” that the legislator also assessed other alternative measures. In the process of adoption of the contested norms, it was assessed whether the obligation to conduct pre-election campaigns in the official language could apply only to pre-election campaigns for which the State budget funds were used or to a certain percentage of the conducted pre-election campaigns. During the drafting process of the law it was concluded that these alternatives would not achieve the legitimate objectives to the same extent (*see audio recordings of the meetings of the Saeima Public Administration and Local Government Committee of 16 May and 7 June 2023. Available at: saeima.lv*).

Also the Constitutional Court concludes that the abovementioned alternative measures would not achieve the legitimate objectives of the restriction on fundamental rights to the same extent. With regard to State budget funding as a criterion for applying the restriction, it should be noted that not all political parties receive State budget funding (*see Section 7.¹ of the Law on Financing of Political Organisations (Parties)*). If the obligation to conduct paid pre-election campaigns in the official language depended on the source of funding, political parties that do not receive State budget funding and use other means for pre-election campaigns would not be subject to the obligation to conduct pre-election campaigns in the official language at all. However, political parties that receive State budget funding would only be subject to such obligation if they spent money from that funding on pre-election campaigns. This would be less restrictive of the use of foreign languages in pre-election campaigns and would not strengthen the unified information space based on the official language, which reduces the possibility of dividing society and the impact of Russian information measures, to

the same extent. It was also pointed out during the meetings of the *Saeima* Public Administration and Local Government Committee that such an alternative would not allow for an immediate response to infringements, as it would always be necessary to first establish the source of funding of the pre-election campaign.

Also, in relation to the matter of the proportion of the use of the official language and foreign languages in pre-election campaigns, it was pointed out at the meetings of the *Saeima* Public Administration and Local Government Committee that monitoring such regulation would be difficult and would require a disproportionate investment from the State. This alternative would not be able to strengthen the unified information space based on the official language to the same extent, because the use of foreign languages would be less restricted.

Therefore there are no other, more lenient measures by which the legitimate objectives of the restriction on fundamental rights could be achieved at least to the same extent.

16. When assessing whether the restriction on fundamental rights complies with the legitimate objectives, it must be ascertained whether the adverse consequences that the individual incurs as a result of the restriction on his or her fundamental rights are outweighed by the benefit that society as a whole derives from this restriction.

In the pending case, the Constitutional Court must examine whether the contested norms provide a reasonable balance between the restriction on the exercise of the right of a political party to freedom of expression by conducting paid pre-election campaigns in a foreign language and the interests of the protection of public security and the democratic structure of the state.

16.1. Freedom of expression is an essential prerequisite for free elections. It is important to ensure the free circulation of opinions and information during the pre-election period in order for the electorate to be able to express its will when choosing a legislator (*see Paragraph 42 of the judgment of the European Court of Human Rights of 19 February 1998 in Bowman v. the United Kingdom, application No. 24839/94*). Political parties are the foundation of a pluralistic society and an essential prerequisite for the existence of the democratic structure of the state which forms a link between society and public authority and ensures organised public involvement in political processes (*see Paragraph 11 of the judgment of the Constitutional Court of 18 October 2023 in Case No. 2022-33-01*). The right to freedom of expression is therefore of particular

importance for political parties, in particular during the pre-election period (*see Paragraph 40 of the judgment of the European Court of Human Rights of 24 February 2009 in Długoński v. Poland, application No. 23806/03, and Paragraph 55 of the judgment of 1 February 2011 in Faruk Temel v. Turkey, application No. 16853/05*).

The European Court of Human Rights has recognised that in cases concerning the restriction on the right to freedom of expression in the electoral or pre-election context, the discretionary power of countries is narrower (*see the judgment of the European Court of Human Rights of 2 May 2023 in Mestan v. Bulgaria, application No. 24108/15*). However, when assessing the restriction on the right to vote in Latvia in the current geopolitical situation, the European Court of Human Rights recognised that the increasing threats to national security, territorial integrity, and the democratic structure of the state require the State of Latvia to have an even wider discretionary power than 20 years ago (*see Paragraph 56 of the judgment of the European Court of Human Rights of 25 July 2024 in the case Ždanoka v. Latvia (No. 2), application No. 42221/18*).

Over the years, the goal of Russia has always been to establish such government in Latvia that is favourable to its policies, so electoral issues in Latvia should be assessed in the context of Russian information influence measures (*see Russia's Information Influence Operations in the Nordic-Baltic Region. Rīga: NATO Strategic Communications Centre of Excellence, 2024, p. 81. Available at: stratcomcoe.org*). Information influence measures are directed at the electoral processes in Latvia in order to separate the Russian-speaking population from the rest of society and undermine the political stability of Latvia (*see Backes O., Swab A., Cognitive Warfare: The Russian Threat to Election Integrity in the Baltic States. Cambridge: Belfer Center for Science and International Affairs. Harvard Kennedy School, 2019*). During the pre-election campaign period, from day 120 before the election until the election day, there is intense communication between the candidates put forward by the political parties and voters who are considering which candidates to support. It is therefore essential that these communications and choices are not distorted by Russian information influence measures and that Russian political interests are not thereby entrenched in the Latvian or European Union legislature or local self-governments.

The formation of the free will of the electorate is particularly under threat in the current geopolitical situation. The Russian full-scale invasion of Ukraine has led to increased security risks across Europe and in particular for the neighbours

to Russia (see *Bērziņš J., Bērziņa I., Rostoks T., Contemporary Challenges to European Security: Neoliberalism, Democratic Backsliding, and Alliance Cohesion. Rīga: National Defence Academy of Latvia. Centre for Security and Strategic Research, 2024, pp. 9–10. Available at: naa.mil.lv*). The National Security Concept 2023 notes that Russia has been radicalised by war and that the tools of hybrid warfare, including the targeted manipulation of the information space, are important within NATO and European Union Member States to achieve its objectives. Russian information influence measures in Latvia have become more frequent and aggressive (see *the Annual Activity Report for 2023 of the Constitution Protection Bureau. Available at: sab.gov.lv*). The European Parliament has recognised that Russia is waging an increasingly widespread disinformation campaign aimed at revising history in order to deny the statehood and existence of Ukraine and to justify its claims to exclusive spheres of influence. By such revision of history Russia threatens democratic values and peace in Europe and poses a particular threat to Poland and the Baltic States and their sovereignty (see *European Parliament resolution of 23 January 2025 on Russia's disinformation and historical falsification to justify its war of aggression against Ukraine (2024/2988(RSP)). Available at: europarl.europa.eu*).

Thus, the contested norms are not directed against pluralism during the pre-election period. They are aimed at reducing the impact of Russian information influence measures. The expansion of Russian information influence in the Latvian information space and the growing security risks make it necessary to limit the use of foreign languages in pre-election campaigns in the current geopolitical situation. This way, not only public security and the democratic structure of the state of Latvia are protected, but also the security and democracy of the entire Europe.

16.2. When assessing the proportionality of restrictions on the use of languages in pre-election campaigns, the extent of the restrictions is important, i.e. whether pre-election campaigns in foreign languages are not completely prohibited (see *the judgment of the European Court of Human Rights of 22 January 2013 in Şükran Aydın and Others v. Turkey, application No. 49197/06 a.o., and the judgment of the European Court of Human Rights of 2 May 2023 in Mestan v. Bulgaria, application No 24108/15*).

The contested norms relate to paid pre-election campaigns. Thus, unpaid pre-election campaigns, such as individual communication with voters and on social networks, as well as debates can take place in any language (see *the audio recording of the meeting of the Saeima Public Administration and Local*

Government Committee of 16 May 2023. Available at: saeima.lv; see also the letter of response by the Saeima, the opinions of the Corruption Prevention and Combating Bureau and the State Security Service). It should also be noted that the restriction on fundamental rights contained in the contested norms applies for a limited period of time. This means that, at other times, the right of political parties to use languages other than the official languages of the European Union is not restricted.

Thus, the contested norms do not provide for a complete ban on the use of foreign languages other than the official languages of the European Union by political parties in their communication with voters during the pre-election campaign period and outside that period.

16.3. The applicant claims that the contested norms will reduce the participation of voters in the elections. It is claimed that the contested norms reduce the interest of voters and participation in the elections, as the possibilities for candidates nominated by political parties to provide information to voters in a foreign language are limited.

The first election during which the contested norms were already in force, including during the pre-election campaign period, was the election to the European Parliament of 2024. Voter turnout in the particular election was higher in comparison with previous years: it was 33.82% in 2024, 33.53% in 2019, and 30.24% in 2014 (*see Turnout by country. Available at: results.elections.europa.eu*). Therefore, it cannot be concluded from the data on voter turnout that the restrictions on the use of foreign languages for paid pre-election campaigns established in the contested norms would reduce participation of voters in the elections.

Taking into account the aforementioned, the Constitutional Court concludes that by adopting the contested norms, the legislator has balanced the interests of public security and the democratic structure of the state, for the protection of which the regulation of the use of the official language, including the Latgalian written language and the Livonian language, is essential in the current geopolitical situation, and the right of political parties to freedom of expression in paid pre-election campaigns. The benefit that society gains from the fact that paid pre-election campaigns must be conducted in the official language, including the Latgalian written language and the Livonian language, outweighs the adverse consequences that a political party suffers as a result of the restriction on its fundamental rights.

Thus, the restriction on the fundamental rights provided for in the contested norms is proportionate and the contested norms therefore conform to the first sentence of Article 100 of the Constitution of the Republic of Latvia.

Substantive Part

Pursuant to Section 29, Paragraph one, Clause 6 and Sections 30 to 32 of the Constitutional Court Law, the Constitutional Court

decided as follows:

1. It is hereby decided to terminate the proceedings in the case in the part concerning the conformity of Section 5.¹, Paragraph three of the Pre-election Campaign Law with Article 100 of the Constitution of the Republic of Latvia.

2. It is hereby declared that Section 5.¹, Paragraphs one and two of the Pre-election Campaign Law conform to the first sentence of Article 100 of the Constitution of the Republic of Latvia.

The judgement is final and not subject to appeal.

The judgement shall enter into force as of the date of its publication.

Chairperson of the court hearing

Irēna Kucina