



LATVIJAS REPUBLIKAS SATVERSMES TIESA

JUDGEMENT

on Behalf of the Republic of Latvia

in Riga on 27 April 2026

in Case No. 2025-06-0106

The Constitutional Court, consisting of: Presiding Judge Irēna Kucina, Judges Anita Rodiņa, Jautrīte Briede, Veronika Krūmiņa, Mārtiņš Mits, and Juris Juriss,

having regard to the Ombudsman's application,

on the basis of Article 85 of the Constitution of the Republic of Latvia and Article 16 (1), Article 17 (1) (8), as well as Article 28¹ of the Constitutional Court Law,

at the court hearing of 1 April 2026 examined in written procedure the case

“On the compliance of the first sentence of Article 52 (3¹) of the Law on Higher Education Institutions with the first sentence of Article 91 and Article 109 of the Constitution of the Republic of Latvia and Article 21 (1) of the Treaty on the Functioning of the European Union”.

The Facts

1. On 2 November 1995, the *Saeima* adopted the Law on Higher Education Institutions, which entered into effect on 1 December 1995.

By Article 1 of the law of 16 June 2021 “Amendments to the Law on Higher Education Institutions” (hereafter – Amendments to the Law on Higher Education Institutions), part 3¹ was added to Article 52 of the Law on Higher Education Institutions, which provided: “A student under the age of 25 years who studies in Latvia in a full-time onsite programme of professional higher education, bachelor’s study programme or a professional study programme, has the right to receive a scholarship for social support if the student conforms to the requirements stipulated by the Cabinet. The social scholarship shall be awarded from the funds of the State budget. The Cabinet shall determine the categories of students to which the social scholarship is awarded, the conditions for awarding the social scholarship, including the achievement level and income of the student, and also the amount of the social scholarship and the procedures for awarding it.”

Terminological clarifications to Article 52 (3¹) were introduced by Article 28 of the law of 15 September 2022 “Amendments to the Law on Higher Education Institutions” and Article 1 of the law of 22 June 2023 “Amendments to the Law on Higher Education”. The awarding of the social scholarship was not changed on its merits by these amendments.

The first sentence of Article 52 (3¹) of the Law on Higher Education Institutions, in the wording currently in force, provides: “A student under the age of 25 years who studies in Latvia in full-time studies in a short-cycle higher vocational education programme and a first-cycle higher education programme, and also a second-cycle higher education programme to be implemented after the acquisition of secondary education has the right to receive a scholarship for social support if the student conforms to the requirements stipulated by the Cabinet” (hereafter – the contested provision).

On the basis of the delegation, included in the contested provision, the Cabinet Regulation of 17 December 2024 No. 818 “Regulation on Scholarships” (hereafter – the Regulation on Scholarships) was issued, in Chapter IV of which, *inter alia*, the requirements for receiving a social scholarship are enumerated. Subparagraph 46.3. of this Regulation defines as one of the criteria the student’s

belonging to one of the groups in need of social support, *inter alia*, belonging to a large family.

2. The applicant – the Ombudsman (hereafter – the Applicant) – alleges that the contested provision is incompatible with the first sentence of Article 91, Article 109 of the Constitution of the Republic of Latvia (hereafter – the Constitution) and Article 21 (1) of the Treaty on the Functioning of the European Union (hereafter – TFEU).

The social scholarship “Studēt gods” [Honour to Study], regulated in the contested provision (hereafter – the social scholarship), is a new element of social security, aimed at protecting students from groups requiring social support, *inter alia*, large families. In general, the legislator has introduced measures for establishing a system that would support the studies of young people from groups requiring social support in higher education institutions, as well as has ensured the enforcement of this right at least in the minimum scope. However, in adopting the contested provision, the legislator has not fulfilled its positive obligation, which follows from Article 109 of the Constitution, i.e., has not established such social support that would comply with the principle of equality before law, included in the first sentence of Article 91 of the Constitution.

Students from large families who have chosen to study in Latvia and students from large families who have chosen to study outside Latvia are in similar and according to certain criteria comparable circumstances. The contested provisions envisages differential treatment of these groups of persons because it gives the possibility to receive the social scholarship to students from large families who choose to study in Latvia but does not envisage the possibility to receive the social scholarship in the same circumstances if the student chooses to study outside Latvia. The purpose of the social scholarship is to provide social support to a certain societal group for studies at a higher education institution to prevent situations where students choose the study programme depending on their financial possibilities. The fact that a student from a large family, according to their abilities and interests, chooses to study outside Latvia in no way decreases such a student’s need for state support.

The Applicant doubts whether the legislator, in the process of drafting the contested provision, has assessed the risks of causing an infringement on fundamental rights. In the stage of elaborating the legal regulation, the legislator has not indicated and substantiated the legitimate aim of the different conditions for granting the social scholarship, i.e., the legitimate aim of the differential treatment. The establishment of differential treatment has been a political choice, made due to financial considerations; however, a budgetary consideration *per se* is not a sufficient ground for establishing differential treatment of groups of persons who are in similar and according to certain criteria comparable circumstances.

The Applicant has initiated an inspection case to clarify the circumstances in the present case. It follows from the information provided by the Ministry of Education and Science in the inspection case that the differential treatment has the following aims: 1) to protect other taxpayers, fairly using the state budget resources to provide social support to students from large families; 2) to facilitate the choice of studies in the Latvian higher education institutions by students from large families because this will, with high probability, ensure positive contribution to Latvia's economy later; 3) to prevent a disproportional burden on public administration, in assessing the possibility of awarding the social scholarship to students from large families studying abroad. The Applicant does not contest the legitimacy of the regulation and the possible aims of the differential treatment, included in it; however, he doubts whether the aims of the legal regulation can be reached by establishing differential treatment.

The contested provision excludes persons who wish to study abroad but who are prohibited from it by their financial situation from the circle of the recipients of the social scholarship. The wish to attract students to studies in Latvia as the potential Latvian taxpayers is inconsistent with the purpose of the social scholarship – supporting large families and decreasing social inequality. The social scholarship should be considered as support not only to the student but also to their family and is part of the reform of the state family allowance. The prohibition to apply for the social scholarship for the students from large families if they study abroad is unfair towards these students who, in accordance with the statistic estimates, will return to Latvia as taxpayers after studies.

Moreover, it is essential that, in the Latvian higher education institutions, the possibility to receive the social scholarship is retained for the students also in the framework of study mobility.

The statement made by the Ministry of Education and Science that, if the state had not established differential treatment of students from large families who study in higher education institutions outside Latvia, unfair treatment of Latvian taxpayers would be permitted who would have to co-finance the acquisition of higher education for those who later, mostly, will not contribute to Latvia's budget is unfounded. Also those large families whose children study abroad pay taxes. The connection to the state does not depend on whether a person is a Latvian taxpayer. It depends on the state's treatment of the person. Unfounded differential treatment not only weakens the connection with the state but also hinders the reaching of the purpose of the social scholarship.

The Applicant holds that there are other, more effective, measures that would encourage the students from large families to choose to study in Latvia. Namely, the state can cooperate with the Latvian higher education institutions with the aim of implementing various instruments for attracting students, as well as envisaging individual assessment of students studying abroad, differentiating approach to this situation and, *inter alia*, inviting the students studying abroad to co-participate and prove their compliance with the criteria for receiving the social scholarship.

The benefit that society gains from the differential treatment of students from large families who study in foreign higher education institutions is neither sustainable nor fair. It cannot be held that this benefit would outweigh the loss suffered by the students from large families who study in foreign higher education institutions and their families.

The Applicant holds that the contested provision is incompatible also with Article 21 (1) of TFEU because it creates obstacles that hinder the students in exercising the right of the Union's citizens, guaranteed in this provision, to move freely within the Member States of the European Union.

3. The institution that issued the contested act – the *Saeima* – holds that the contested provision complies with the first sentence of Article 91 and Article 109 of the Constitution, as well as Article 21 (1) of TFEU.

3.1. The social scholarship is a measure of social support, created within the framework of the state's discretion, with the aim of ensuring the right, included in the first sentence of Article 112 of the Constitution, to education on the highest level of education and to facilitate the accessibility of higher education, by providing financial support to commence and continue studies. Thus, the legislator, by adopting the contested provision, has implemented measures to ensure to persons the possibility to exercise their social rights.

The legislator has determined the main principles for awarding the social scholarship in the contested provision and has delegated the defining of more detailed criteria to the Cabinet. The social scholarship is awarded on the basis of the assessment of certain criteria, including criteria of social nature. It is intended for several groups in need of social protection. Students from large families is only one of them. Students studying not only in state higher education institutions but also in higher education institutions, established by private persons, may receive the social scholarship. Moreover, the social scholarship may be combined with other support measures provided by the state. Thus, the legislator has adopted such legal regulation that ensures to persons the possibility to exercise their social rights at least in the minimum scope.

The shared feature of both groups of persons, pointed out by the Applicant, could be compliance with other criteria for receiving the social scholarship and the need of financial assistance. However, there are circumstances that prove that the respective groups of persons should be distinguished and are not in comparable circumstances. Namely, the social scholarship is not directed at ensuring to a person access to any study programme in any state but to ensure that, due to socio-economic circumstances, a person's access to the Latvian system of higher education and to higher education in general would not be hindered. Studies in the Latvian institutions of education facilitate sustainable national development. The social scholarship has been specially adjusted to the social and economic situation in Latvia and its amount is linked to a criterion that can be objectively established – the basic costs of one

study place in Latvia as a concrete amount, defined by the state. At the time when the contested provision was adopted, EUR 1600 were allocated for ensuring one study place, and this amount was disbursed for not more than 10 months within a year. Since the adoption of the contested provision, the amount of the social scholarship has increased from EUR 160 to EUR 180 per month. Those studying abroad are in a different economic situation than those who study in Latvia because the costs of living, the amount of minimum salary, the tax burden, the social security provided by the state and the specific additional expenses, linked to studies and life in the specific country, differ significantly from the respective circumstances in Latvia.

3.2. Assuming that the contested provision sets out differential treatment of groups of persons who are in similar circumstances, the *Saeima* notes that the legislator, in the process of adopting it, has complied with the principles of good legislation and the differential treatment is proportional.

The eligibility criterion for the social scholarship, defined in the contested provision, i.e., studies in Latvia, follows from the deliberate choice made in the legislative process to introduce this scholarship as a social support measure intended for specific vulnerable groups. During the process of drafting the contested provision, no objections were received against granting this support only to those studying in Latvia; however, in general, the matters of legal equality were examined in the context of drafting the contested provision.

Pursuant to the principles of granting social support, a person's residence in Latvia and connection to the state must be established because the state's obligation is to provide support primarily specifically to inhabitants within its territory. Moreover, in circumstances where the state's resources are limited, it is permissible that the state primarily supports those persons who not only become integrated into the system of higher education established by the state but also develop it further, participate in the Latvian labour market and economy. The criterion, included in the contested provision, i.e., studies in Latvia, is directed at reaching several aims. Firstly, it encourages a person to choose to study specifically in a Latvian higher education institution. Secondly, it diminishes the increased "brain drain" risks, already identified in Latvia, i.e., that young people who acquire higher education in the new country or the country of

residence stay there for permanent residence. Thus, the national sustainable development is jeopardised. Thirdly, it facilitates the participation of persons who have acquired higher education in Latvia in the Latvian labour market and scientific research activities, thus promoting sustainable socio-economic development of the state. Hence, the legitimate aim of the differential treatment set out in the contested provision is public welfare.

Neither the contested provision nor any other provisions of the Law on Higher Education Institutions or the Regulation on Scholarships, applicable to the social scholarship, restrict a person's right to study abroad. The social scholarship serves as special support for a person's choice to study specifically in Latvia.

The state provides support of social nature, in fulfilling its duty to ensure effective access to the national higher education system. Studies abroad, however, is a matter outside the state's jurisdiction. It is a person's special choice and supporting it is not a state's duty derived from the Constitution or international commitments. Thus, the measure established in the contested provision is suitable for reaching the aim of the differential treatment.

The alternatives, offered by the Applicant, have been assessed in the legislative process and have been recognised as being contrary to the legitimate aim or such that would demand disproportionately large contribution from the state. Thus, it is impossible to reach the legitimate aim by less restrictive measures. The benefit that the society gains from the differential treatment, included in the contested provision, outweighs the damage inflicted upon a person's rights and lawful interests.

The contested provision does not prohibit from exercising the right to freedom of movement, guaranteed in Article 21 (1) of TFEU. The obligation of a Member State to award a scholarship that as to its nature is social support to persons studying abroad does not follow from the said provision, hence, the contested provision complies with Article 21 (1) of TFEU.

4. The summoned person – the Cabinet of Ministers – holds that the contested provision complies with the first sentence of Article 91, Article 109 of the Constitution and Article 21 (1) of TFEU.

The Cabinet upholds the *Saeima's* opinion and notes additionally that, in the process of drafting the contested provision, the correlation between a family's level of income and a person's choice to study abroad had been identified, it had also been taken into consideration that, in many Member States of the European Union, there is universal support for the acquisition of higher education, intended for all students, without separating a group of students either by their achievements or socio-economic indicators. In general, the aspects of equality were assessed in the process of adopting the contested provision.

The experts of the World Bank, already in 2014, providing recommendations for improving the Latvian system of higher education recommended re-examination of elements in student support – the conditions for scholarships, loans and loan repayments, including a more socially just system of student support in the model of financing higher education institutions. In the study of *Eurydice* network “Towards Equity and Inclusion in Higher Education in Europe”, a support mechanism like social support during the period of studies was recognised as one of the most essential support mechanisms that ensured access to the system of higher education.

The aims defined in the process of introducing the scholarship – facilitating the accessibility of higher education in Latvia, in particular, with respect to the target groups of social scholarship, and to decrease the drop-out rate – in general have been achieved. However, it is important to underscore that, in the introduction of the social scholarship, the socio-economic situation specifically in Latvia was taken into consideration. The Cabinet's task, defined in the contested provision, to include such a criterion as the income level in the conditions for awarding the scholarship points to this. The amount of the social scholarship is linked to an objectively identifiable criterion – the basic costs of a study place in Latvia.

The Cabinet is of the opinion that both comparable groups are in different circumstances. A student from a large family who studies at an accredited higher education institution in Latvia, in difference to a student who has grown up in the same type of family and studies outside Latvia, participates in the Latvian system of higher education, which means, *inter alia*, that the data of a student like this are included in the National Education Information System. These data

are important for verifying whether the receipt of the social scholarship complies with its conditions, in particular, with respect to the specific study semester, academic performance and academic debt. Moreover, the income level, which, according to the contested provision, is one of the conditions for awarding the social scholarship may be interpreted differently in different countries.

At the time of providing the opinion, there are 46 accredited higher education institutions in Latvia and a student may receive a social scholarship irrespective of the higher education institution of their choice. The legislator has established an accessible system of higher education. The social scholarship expands the accessibility of higher education for persons from socially vulnerable groups. By introducing the social scholarship, the legislator has ensured the adjustment of education system in circumstances where the other Members States of the European Union already had introduced student support based on social criteria.

5. The summoned person – the Ministry of Education and Science – holds that the contested provision complies with the first sentence of Article 91, Article 109 of the Constitution and Article 21 (1) of TFEU.

The Ministry of Education and Science subscribes to the *Saeima's* reasoning, as well as the Cabinet's statements regarding the considerations that had been taken into account in the process of drafting the contested provision.

The Ministry of Education and Science points out that, in terms of receiving the social scholarship, all regions of Latvia are evenly covered. The breakdown of the recipients of social scholarships according to their declared place of residence is similar to the regional breakdown of the population – the majority, i.e., 34 per cent of the social scholarship recipients are from Riga, 19 per cent from Greater Riga, 15 per cent from Kurzeme, 12 per cent from Vidzeme, 12 per cent from Latgale, and nine per cent from Zemgale.

Likewise, the Ministry of Education and Science points out that the social scholarship recipients, in difference to other students, have better motivation to continue the commenced studies, as well as to avoid academic debt. The statistical data show that, in 2024, the number of the social scholarship recipients who had been expelled from studies did not amount even to five per cent and

this, in turn, is approximately four times less than the proportion of students with characteristics that are similar to the target group. In the long term, the social scholarship as a solution for ensuring the accessibility of higher education is an investment into the Latvian human capital.

6. The summoned person – the Ministry of Justice – holds that the contested provision complies with the first sentence of Article 91, Article 109 of the Constitution and Article 21 (1) of TFEU.

The Ministry of Justice upholds the *Saeima's* opinion and notes in addition that, in the process of adopting the contested provision, no risks had been identified regarding the incompatibility of such regulation with the Constitution or TFEU. Since students who meet certain criteria can receive the social scholarship for studies in the Latvian higher education institutions, it can be considered that the state has ensured to persons the possibility to exercise their social rights at least in the minimal scope.

The social scholarship is aimed at ensuring that, due to socio-economic circumstances, a person should not have difficulties in accessing specifically the Latvian system of higher education and this scholarship facilitates sustainable national development. The legislator, taking into account its discretion in determining social support measures and defining the criteria for awarding the social scholarship, had deliberately and justifiably separated the group of persons studying in Latvia from that group of persons who study abroad. Thus, these groups of persons are not in comparable circumstances.

A Member State's obligation to envisage support for the completion of a study programme in another state has not been determined in the European Union law; however, if the system for supporting the acquisition of education, established by a Member State, permits that support is received also by such students who study abroad the Member State should ensure that the conditions for awarding support would not create unfounded restrictions on a person's right to freely move and reside in the territory of another Member State. A Member State, within the limits of its discretion, may also not envisage financial support for studies abroad. Since the social scholarship cannot be qualified as support for completing a study programme in another country there are no grounds for

considering that the contested provision would restrict the right to the freedom of movement, guaranteed in Article 21 (1) of TFEU.

7. The summoned person – the Ministry of Welfare – holds that the contested provision complies with the first sentence of Article 91, Article 109 of the Constitution and Article 21 (1) of TFEU.

The contested provision should not be regarded as a discriminatory restriction but as a constitutionally justified political choice of the state in the area of education financing. The equality before law is not an absolute principle requiring equal treatment of all persons in all situations but means a complex balance between the equality requirement and the right of a democratic state to make a political choice with respect to allocation of resources. The state's obligations in the area of education, although constitutionally established, nevertheless, are not infinite. Article 112 of the Constitution, guaranteeing the right to education, does not impose an obligation upon the state to ensure unrestricted financial support for all types and forms of education, irrespective of the place where education is acquired or the connection to national interests.

The social scholarship serves several systemic aims that are closely linked to the priorities of the Latvian education policy. Namely, it is directed at increasing the number of students studying at the Latvian higher education institutions, as well as encourages young people to stay and acquire education in Latvia, which is an important factor for retaining and developing the national human resources. The social scholarship is not general social support but an instrument of education policy, subordinated to specific aims in the development of the Latvian system of higher education. This scholarship also serves as an instrument of social solidarity, which not only provides the necessary support to socially vulnerable young people but also encourages them to choose studies at the Latvian higher education institutions, thus facilitating the accessibility of education and social mobility in Latvia. The territorial restriction of the social scholarship is not a discriminatory but rather a necessary condition for ensuring the effectiveness of the policy instrument and reaching its basic aim – integration of specific social groups in the Latvian system of higher education.

The social scholarship simultaneously serves as an instrument of solidarity between the state and its citizens, which promotes bilateral commitments – the state ensures support for education but the citizens, through their participation and presence, promote national development. Studies abroad, although, viewed from an individual perspective, are legitimate and also valuable; however, they decrease the direct contact of persons studying there with the Latvian society, labour market and national education structures, as well as limit immediate contribution to the Latvian socio-economic space.

The state's obligation to ensure equal social support to all, irrespective of the place of studies, is not automatically applicable and the state is not obliged to ensure to those studying abroad the same support as to those studying in Latvia. The concentration of resources for local needs is a rational solution that allows ensuring more qualitative and effective support to those who are within the area of the state's direct responsibility. Functioning of the support without territorial restrictions, in turn, could lead to depletion of the state's resources and inability to ensure adequate support to the priority groups, as well as would create systemic problems and disproportional burden upon the state budget, thus endangering the sustainability of the entire support system.

8. The summoned person – the State Education Development Agency

– notes that the state does not have the obligation to facilitate studies abroad. The state has ensured the accessibility of higher education in Latvia and it has the right to concentrate resources for strengthening the Latvian education space, *inter alia*, by supporting students. Those studying abroad and those studying in Latvia are in a different economic situation, for example, in terms of rent, study and other costs, as well as the social security provided by the specific state. The contested provision in no way restricts a person's right to choose to study abroad, as well as to participate in study mobility programmes.

9. The summoned person – the Rectors' Council

– states that the introduction of the social scholarship had been an important step towards ensuring the accessibility of higher education to the Latvian population. Prior to the introduction of this scholarship, such support for the acquisition of higher

education that would be provided according to social characteristics or other criteria, except academic achievements, had not been ensured. The legislator has linked the social scholarship to the system for financing higher education and it should be regarded as an element of the Latvian system of higher education.

The considerations regarding the linkage of the social scholarship to the current higher education system, including the information systems, from which the data necessary for examining applications for scholarships and for awarding scholarships are retrieved, cannot be ignored. If the existing technical solution cannot be applied in an identical way to the students studying in the Latvian higher education institutions and in foreign higher education institutions than a risk of violating the principle of equal rights exists. If the applications by those studying in Latvia were examined in the existing procedure but the applications by those studying abroad would be examined on case-by-case basis then the study achievements of both groups of students would not be comparable, taking into account the differences in the way studies proceed and requirements for assessing achievements existing in different systems of higher education.

The social scholarship is a benefit for its recipients; however, it cannot cover all material needs of a student. Studies abroad involve greater expenditure than studies in Latvia. Moreover, a tuition fee has been introduced in a number of countries, which significantly exceeds the study fee, which has been established in Latvia for those study programmes that are not financed by the state.

Expanding the circle of the social scholarship recipients cannot be excluded; however, the respective solutions should be linked to granting of additional financing in order not to jeopardise the system of awarding scholarships and not leave without a social scholarship many Latvian students who have reckoned with the possibility of receiving this scholarship. Likewise, the contested provisions could be applied also to branches of foreign higher education institutions that have been opened or would be opened in Latvia.

10. The summoned person – the Student Union of Latvia – states that the contested provision complies with the first sentence of Article 91 of the Constitution and Article 109 of the Constitution.

The social scholarship should retain its targeted nature, ensuring the sustainability of national interests and education policy. The legislator's decision to grant the social scholarship only to those studying in Latvia has a legitimate aim – facilitating the accessibility of higher education in Latvia and reinforcing the capacity of Latvian higher education institutions, *inter alia*, the state's interest in maintaining and developing the national system of higher education. This decision by the legislator is based on objective circumstances because the state directly finances the Latvian higher education institutions and ensures such support mechanisms, the application of which abroad would go beyond the limits of the state's responsibility and would not be feasible in practice. The contested provisions are proportional because the social scholarship is not a general allowance for large families but is a targeted instrument for supporting specific, socially important action – studying at a Latvian institution of higher education.

Those studying abroad cannot be directly compared to those studying in Latvia because the structure of their expenditure, access to resources and social protection may differ. Each country implements its own mechanism for supporting students. The state cannot directly supervise or assess the quality and contextual differences of the programmes of a foreign higher education institution. Studies in Latvia facilitate also the development of the state language, culture and science, which cannot be specifically facilitated abroad.

11. The summoned person – LL.M. Katrīne Pļaviņa-Mika – states that the criterion, included in the contested provision, regarding studies in Latvia is connection to the place of residence in the meaning of the European Union law. The restriction on the freedom of movement, guaranteed in Article 21 (1) of TFEU, included in the contested provision is not proportionate to Latvia's general interest of facilitating access to the Latvian system of higher education as it requires proving a student's connection to Latvia by the place of residence.

The Court of Justice of the European Union reviews social support to economically active citizens of the European Union through the perspective of Article 45 (2) of TFEU – workers' freedom of movement. The Court of Justice of the European Union has pointed out that the principle of equal treatment in the area of social assistance, established in Article 45 of TFEU, prohibits not only open discrimination due to citizenship but also any hidden discrimination

that, by applying other distinguishing criteria, causes the same outcome. It follows from the cases regarding social support to economically active citizens of the European Union, heard by the Court of Justice of the European Union, that in cases regarding the social support for financing students the Court of Justice of the European Union regards the criterion of place of residence as permissible for objectively substantiating the restriction on Article 45 of TFEU; however, it requires it to be compliant with the proportionality criteria in the narrow sense. It follows from the cases regarding social support to economically inactive citizens of the European Union that in cases regarding social support for financing students the Court of Justice of the European Union considers the requirement regarding the place of residence excessive for objectively substantiating the restriction on Article 21 of TFEU.

Although no scholarship for social support goes directly into the budget of a higher education institution, they all are directed at the rights of the citizens of the European Union to exercise the right to education and occupation in any Member State of the European Union. Aims of general importance, in the meaning of the European Union law, comprise both those referred to in Article 3 of TFEU and those that are protected by the special provisions of TFEU, e.g., Article 36, Article 45 (3) and Article 52 of TFEU. These provisions do not comprise the wording of the legitimate aim, pointed out by the *Saeima*, e.g., such aims as preventing “brain drain” or facilitating access to the higher education system of a particular Member State of the European Union. Thus, these legitimate aims do not comply with the aims of general importance, in the meaning of the European Union law.

Assuming that the legitimate aim of the contested provision is facilitating access to the Latvian system of higher education then the criterion of the place of residence is suitable for reaching this aim. The contested provision provides social support to Latvian students who reside in Latvia, allowing them to cover, at least partially, the costs of daily living and focus more on studies rather than search for paid employment. However, the need to link the social scholarship, in addition to other criteria, to such a criterion as the place of residence in Latvia is too general and goes beyond what is actually necessary for reaching the legitimate aim. A student’s connection to Latvia can be established, to a sufficient

extent, according to other criteria for receiving the social scholarship, e.g., the Latvian registers comprise data on the social status of the student and their family members and the status as a Latvian citizen. Moreover, Latvia should ensure the possibility to assess the connection of a citizen of the European Union, applying for a social scholarship, to Latvia as their country of origin.

The Findings

12. The contested provision establishes general criteria for receiving the social scholarship, i.e., the student's age and the need to study in a Latvian higher education institution. More detailed criteria for receiving the social scholarship, in turn, are defined by the Cabinet Regulation, issued on the basis of the contested provision. On the basis of the contested provision, the Cabinet has issued the Regulation on Scholarships, Chapter IV of which, *inter alia*, defines the eligibility requirements for a social scholarship. Subparagraph 46. 3. of this Regulation envisages as one of the criteria the student's belonging to one of these four groups in need of social support: students from large families, orphans, persons with group I and II disability, students from needy or low income households.

If the contested provision applies to a wide range of different situations then the scope, in which the constitutionality of the contested provision should be reviewed, must be specified (*see Judgement by the Constitutional Court of 23 May 2024 in Case No. 2023-34-01, Para. 15*).

In view of the fact that the Applicant has expressed his arguments regarding the incompatibility of the contested provision with a superior legal provision with respect to students from large families, as well as of the materials in the case file, the Constitutional Court shall review the contested provision insofar it applies to the social scholarship for students from large families.

13. The Applicant requests the Constitutional Court to review the compliance of the contested provision with the first sentence of Article 91, Article 109 of the Constitution, as well as the freedom of movement, guaranteed in Article 21 (1) of TFEU. The Constitutional Court must verify whether

Article 109 of the Constitution and Article 21 (1) of TFEU are applicable to the contested provision.

13.1. The Applicant holds that the legislator has not fulfilled its positive obligation, derived from Article 109 of the Constitution, i.e., by envisaging in the contested provision the state's support, in the form of a social scholarship, to students from large families, it has not respected the principle of equality before law, included in the first sentence of Article 91 of the Constitution.

First of all, the Constitutional Court must establish whether the contested provision applies to the right, which falls within the scope of the right to social security, included in Article 109 of the Constitution.

13.1.1. Article 109 of the Constitution provides: "Everyone has the right to social security in old age, for work disability, for unemployment and in other cases as provided by law." Article 109 of the Constitution guarantees to inhabitants the right to a stable and foreseeable, as well as effective, fair and sustainable system of social protection that ensures commensurate social security (*see Judgement by the Constitutional Court of 19 December 2011 in Case No. 2011-03-01, Para. 15.2.*).

The system of social protection is aimed at levelling the consequences of various circumstances, the so-called social risks. The risks related to a person's age, inability to work and unemployment are referred to in Article 109 of the Constitution; however, this enumeration of social risks is not exhaustive and this provision of the Constitution imposes upon the legislator the duty, if necessary, to include other social risks in the social security system. Part of the risks, which the legislator must mandatorily include in the social security system, follows from the fundamental rights, established in other articles of the Constitution, and the obligations related thereto, e.g., regarding health protection, care for persons with disabilities, the rights of children, support for the family (*see Judgement by the Constitutional Court of 29 October 2010 in Case No. 2010-17-01, Para. 7*). The aim of the state guaranteed social security is to ensure, if any of the social risks sets in, social justice and to serve to provide the possibility to everyone to live a life worthy of human dignity (*see Judgement by the Constitutional Court*

of 5 October 2023 in Case No. 2022-34-01, Para. 11). Namely, these social risks are such risks, in the case they set it, the person would be unable to provide, without the state's support, for basic needs, the meeting of which is a prerequisite of a life with dignity. Thus, the social security, envisaged for the cases when social risks set in and guaranteed by the state, is linked to providing for a person's basic needs for a life with dignity.

13.1.2. It follows from the preparatory materials of the contested provision that, on 22 September 2020, the Cabinet examined the informative report, prepared by the Ministry of Finance, "On Proposals for State Budget Revenue and Expenditure for 2021 and the Framework of 2021–2023" and instructed the Ministry of Education and Science to prepare and submit to the Cabinet an informative report, together with elaborated draft legal acts, regarding the state's support to young people from large families for studying in the Latvian higher education institutions, assessing the socio-economic aspects of a student, indicators of academic achievements, the age threshold, accessibility of study places, another aspects, integrating the support in the general system of education, ensuring the necessary financing in 2021 from the financing reserved for demographic measures (*see Minutus of the Cabinet's sitting of 22 September 2020 No. 55, 38.§, Subpara. 6.2. Available: likumi.lv*).

Accordingly, the Ministry of Education and Science prepared an informative report, which included the proposal to develop this support to students from large families as a social scholarship (*see Informative Report by the Ministry of Education and Science "On State Support for Studies to Students from Large Families Studying at the Latvian Higher Education Institutions."* Available: *izm.gov.lv*). Although initially, at the sitting of the Saeima Education, Culture and Science Committee, it was proposed to apply the social scholarship only to students from large families and it was noted that the social scholarship could be considered an element in the reform to the state family allowance, during examination of the Amendments to the Law on Higher Education Institutions, it was decided to expand the circle of the social scholarship recipients, applying this scholarship also to students belong to other social groups (*see Audio recording of the sittings of Education, Culture and Science Committee on 8 and 14 June 2021. Available: saeima.lv*). Thus, in the course of

drafting the Amendments to the Law on Higher Education Institutions, the contested provision was examined, primarily, not as an element of the reform to the state family allowance but a measure of state aid, the aim of which was to facilitate the access to higher education of Latvia to socially more vulnerable groups of students, including students from large families (*see Audio recording of the sittings of Education, Culture and Science Committee on 8 and 14 June 2021 and Transcript of the Saeima's sitting on 16 June 2021. Available: saeima.lv*).

Hence, it can be concluded that the legislator, by the contested provision, has created a measure of state aid for particular social groups, including students from large families, in the form of a social scholarship for studies at the Latvian higher education institutions.

13.1.3. The measure of state aid, included in the contested provision, is aimed at facilitating access to higher education in Latvia to students from large families. The risk that higher education would not be acquired cannot be considered such social risk, upon the setting in of which a person would be unable to provide for their basic needs in order to lead a life worthy of human dignity. Article 109 of the Constitution does not guarantee protection against a risk of this kind. It follows from Article 112 of the Constitution that higher education in Latvia is not mandatory. Neither is the awarding of scholarships for studying at higher education establishments a state's obligation, derived from Article 112 of the Constitution (*see Judgement by the Constitutional Court of 6 May 2011 in Case No. 2010-57-03, Para. 11.4.*). The social scholarship, envisaged in the contested provision, should be considered a privilege, granted within the framework of the legislator's discretion, aimed at providing additional support to students from large families who study at the Latvian higher education institutions. Several of the summoned persons, i.e., the Cabinet, the Ministry of Welfare, the Rectors' Council and the Student Union of Latvia, also point out that the social scholarship should not be considered general social support but rather an instrument, the primary aim of which is to facilitate access to higher education and which is linked to financing of the Latvian system of higher education (*see Case File, Vol. 2, pp. 30, 39, 56–58*).

Thus, in view of the nature of the social scholarship, it can be concluded that the measure of state aid for the students from large families, envisaged in the contested provision, is outside the scope of application of Article 109 of the Constitution. Since the contested provision does not fall within the scope of fundamental rights, established in Article 109 of the Constitution, legal proceedings in this part of the case shall be terminated.

Hence, legal proceedings in the part of the case regarding the compliance of the contested provision with Article 109 of the Constitution shall be terminated, on the basis of Article 29 (1) (6) of the Constitutional Court Law.

13.2. The Applicant requests the Constitutional Court to review the compliance of the contested provision with Article 21 (1) of TFEU, which defines the right of the citizens of the European Union to free movement.

13.2.1. First of all, the Constitutional Court must verify whether, in the context of the present case, the freedom of movement is linked to the application of the Regulation (EC) No. 883/ 2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (hereafter – Regulation No. 883/2004) and whether the social scholarship, envisaged in the contested provision, should be considered a benefit in the meaning of this regulation (*see Judgement by the Court of Justice of the European Union of 11 November 2014 in Case C-333/13 “Dano”, Para. 61 and 62*). Regulation No. 883/2004 coordinates the social security systems of the Member States so that persons who move between the Member States of the European Union would not lose their social rights. Pursuant to Article 7 of Regulation No. 883/2004, benefits are subject to any reduction, amendment, suspension, withdrawal or confiscation on account of the fact that the beneficiary or the members of his family reside in a Member State other than that in which the institution responsible for providing benefits is situated.

The Court of Justice of the European Union has pointed out that the distinction between benefits falling within the scope of Regulation No. 883/2004 and benefits which are outside it is based essentially on the constituent elements of each benefit, in particular, its purpose and the conditions for its grant, and not

on whether it is classified as a social security benefit by national legislation. A benefit is regarded as a social security benefit in so far it is granted automatically, on the basis of legally defined criteria and relates to one of the risks listed on Article 3 (1) of Regulation No. 883/2004 (*see, for example, Judgement by the Court of Justice of the European Union of 18 December 2019 in Case C-447/18, Para. 22 and 23*). Pursuant to Article 3 (1) “j”, this Regulation applies also to family benefits for preventing social security risks.

It follows from the case-law of the Court of Justice of the European Union that such benefits that are granted automatically to families meeting objective criteria (e.g., the size of the family, income and capital resources), without any individual assessment of personal needs and are intended to meet the family expenses, belong to the family benefits, referred to in Article 3 (1) “j” of Regulation No. 883/2004. The public contribution to a family’s budget to alleviate the financial burdens involved in the maintenance of children are also included into the benefits that meet family expenses (*see Judgement by the European Court of Human Rights of 14 June 2016 in Case C-308/14 “Commission/United Kingdom”, Para. 60, and Judgement of 21 June 2017 in Case C-449/16 “Martinez Silva”, Para. 22 and 23*).

The contested provision provides for the right of students from large families to receive the social scholarship to study at the Latvian higher education institutions. The scholarship, established by the contested provision, cannot be considered a family benefit in the meaning of Article 3 (1) “j” of Regulation No. 883/2004 because it is not intended for meeting family expenses but has been established to ensure, with the financial support of the state, the possibility to persons from large families to acquire higher education in Latvia. Moreover, the social scholarship is not awarded automatically to students belonging to the respective social group but only following their individual assessment, in the framework of which their results of centralised examinations are verified as well as how diligently they study at the higher education institution (*see Regulation on Scholarships, Subpara. 46.10. and 46.11.*). It also follows from the publicly available information at the disposal of the State Social Insurance Agency that the social scholarship is not on the list of those family benefits that are to be considered family benefits in the meaning of Regulation No. 883/2004

(see: State Social Insurance Agency. *Family Benefits in the European Union*. Available: vsaa.gov.lv).

13.2.2. Although the state aid for students from large families does not fall with the scope of application of Regulation No. 883/2004, it should be verified whether the impossibility to receive the social scholarship in case where the choice in favour of studies abroad has been made does not create a restriction of the freedom of movement of the citizens of the European Union, included in Article 21 (1) of TFEU.

The Applicant, referring to the judgement by the Court of Justice of the European Union in joined cases C-11/06 and C-12/06 “*Morgan un Bucher*”, points out that the contested provision is incompatible with Article 21 (1) of TFEU because it restricts the freedom of movement of those persons of Latvian origin who would wish to study in another Member State of the European Union. The Applicant holds that, by the contested provision, a student is indirectly encouraged not to choose studying outside Latvia. The *Saeima*, in turn, referring to the same judgement by the Court of Justice of the European Union, points out that the criterion, included in the contested provision, i.e., studies in Latvia, testifies to the aim of not financing those studying abroad and, thus, excludes the application of the European Union law in the present case.

The Court of Justice of the European Union has applied Article 21 (1) of TFEU in cases with respect to a Member State’s support to those studying abroad (see, for example, *Judgement by the Court of Justice of the European Union of 23 October 2007 in Joined Cases C-11/06 and C-12/06 “Morgan un Bucher”*; *Judgement of 18 July 2013 in Joined Cases C-523/11 and C-585/11 “Prinz un Seeberger”*; *Judgement of 24 October 2013 in case C-220/12 “Thiele Meneses”*). The Court of Justice of the European Union in its judgement in joined cases C-11/06 and C-12/06 “*Morgan un Bucher*”, as well as in cases reviewed later on the state aid for the acquisition of higher education, which pertained to matters related to the freedom of movement, has stated that an obligation of Member States to envisage support for education that would cover acquisition of study programmes in other Member States does not follow from the European Union law; however, if a Member State has envisaged such support for education to which also those studying in another Member State are eligible,

the Member State must ensure that the conditions for awarding this support would not create unfounded restrictions on a person's right to freely move and reside on the territory of other Member States (*see Judgement by the Court of Justice of the European Union of 23 October 2007 in Joined Cases C-11/06 and C12/06 "Morgan un Bucher", Para. 28*; *Judgement of 18 July 2013 in Joined Cases C-523/11 and C-585/11 "Prinz un Seeberger", Para. 30*; *Judgement of 24 October 2013 in Case C-220/12 "Thiele Meneses", Para. 25*).

By the contested provision, the legislator has established a social scholarship, the aim of which is facilitating the access of persons from large families to higher education in Latvia. Hence, the social scholarship is a support measure for the acquisition of higher education, established by the legislator, which the students from large families may receive within the country. Moreover, it should be taken into account that, with respect to support for studies abroad, the Cabinet has been authorised by Article 82 of the Law on Higher Education Institutions to issue regulation that would envisage the possibility of receiving a scholarship for studying abroad. Until now, the Cabinet has not issued such regulation and has not envisaged a scholarship for studies abroad. Hence, in view of the established case-law of the Court of Justice of the European Union in cases regarding support for studies, provided by the Member States, it can be concluded that Article 21 (1) of TFEU is not applicable in the present case because the legislator has not envisaged a system that would comprise support for studies abroad. Hence, legal proceedings in this part of the case shall be terminated.

Thus, legal proceedings in the part of the case regarding the compliance of the contested provision with Article 21 (1) of TFEU shall be terminated, on the basis of Article 29 (1) (6) of the Constitutional Court Law.

14. The Applicant states that the contested provision is incompatible with Article 91 of the Constitution since it envisages unfounded differential treatment of groups of persons that are in similar and comparable circumstances.

The first sentence of Article 91 of the Constitution provides: "All human beings in Latvia shall be equal before the law and the courts."

Pursuant to the principle of equality before law, included in the first sentence of Article 91 of the Constitution, the legislator has no right to adopt such legal regulation that, without reasonable grounds, permits differential treatment of persons who are in similar and according to certain criteria comparable circumstances or equal treatment of persons who are in different circumstances (*see Judgement by the Constitutional Court of 20 November 2024 in Case No. 2023-43-03, Para. 10*).

15. To assess whether the contested provision complies with the principle of equality before law, it must be established whether and which persons (groups of persons) are in similar and according to certain criteria comparable or different circumstances (*see, for example, Judgement by the Constitutional Court of 20 November 2024 in Case No. 2023-43-03, Para. 11*).

15.1. The Applicant points out that the aim of the social scholarship is to provide social support for studies at higher education institutions to a certain social group to prevent a situation where a student chooses the study programme depending on their financial possibilities. The Applicant holds that students from large families who have chosen to study in Latvia and students from large families who have chosen to study abroad are in similar and according to certain criteria comparable circumstances. Both these groups of persons are united by the need for financial support to study.

The *Saeima*, however, points out that these groups of persons are in different circumstances because those studying abroad are in a different economic situation than those studying in Latvia since the costs of living, the amount of minimum salary, the tax burden and the social security provided by the state and specific additional expenses linked directly to studies and living in the particular state may significantly differ from the respective circumstances in Latvia. In the *Saeima*'s opinion, a person's choice to study abroad is the person's own special wish that requires specific investment of additional resources, which is not required for studies in Latvia. The social scholarship has been especially adapted to the Latvian economic situation and its aim is not to facilitate a person's access to various study programmes of interest to them that are implemented abroad.

Pursuant to Para. 40 of the Regulation on Scholarships, the current amount of social scholarship is EUR 180 per month and it is disbursed over 10 months during the study year. The amount of the social scholarship is linked to the basic costs of a study place in Latvia as a minimum amount, determined by the state, which is need for ensuring one study place, and this amount gradually increases (*see Audio recording of the sitting of the Saeima Education, Culture and Science Committee on 8 June 2021. Available: saeima.lv*). Thus, the state has envisaged support that would facilitate access to students from large families to higher education in Latvia and, within the limits of its discretion, has determined the minimum amount of support. However, it should be taken into account that the amount of the social scholarship has not been defined with the aim of covering for a student all costs related to the acquisition of higher education. The social scholarship has not been attached to a particular aim, e.g., covering the tuition fees, and the student may choose themselves whether to use the social scholarship for covering the tuition fees or other costs. The social scholarship in the amount of EUR 180 cannot cover all costs related to the acquisition of higher education either in Latvia or outside it. The social scholarship should be considered an additional support measure that helps to cover costs related to the acquisition of higher education.

15.2. To determine whether and which groups of persons are in according to certain criteria comparable circumstances, the main characteristics uniting these groups must be found. A situation that has one or several common characteristics with the situation to be assessed must be chosen for comparison. The common characteristics must place both situations under one overarching concept. Moreover, it should also be assessed whether there are no substantive considerations indicating that the respective groups of persons are not in comparable circumstances (*see Judgement by the Constitutional Court of 24 October 2025, Case No. 2024-16-01, Para. 25*).

As concluded above, the legislator, within the limits of its discretion, has envisaged in the contested provision a social support measure in the form of a social scholarship to facilitate the access of socially vulnerable groups, including students from large families, to higher education in Latvia (*see Para. 13.1.2. and 13.1.3. of this judgement*). The students from large families who have chosen to

study in Latvia and the students from large families who have chosen to study outside Latvia are united by common characteristics, i.e., both these groups are united by the belonging to a large family, the wish to study, as well as the compliance with other eligibility criteria for a social scholarship, included in Para. 46 of the Regulation on Scholarships. The subjective wish of the students from large families to study at a higher education institution in Latvia or outside it should be considered a distinguishing feature of these both groups; however, this distinguishing feature cannot be considered as important as to place these two comparable groups in different circumstances.

Hence, both groups of students are in similar and according to certain criteria comparable circumstances.

16. The Constitutional Court must establish whether the contested provision provides for differential treatment of persons who are in similar and according to certain criteria comparable circumstances, i.e., students from large families who choose to study at a higher education institution in Latvia and students from large families who choose to study at a higher education institution outside Latvia (*compare, see Judgement by the Constitutional Court of 20 November 2024 in Case No. 2023-43-03, Para. 12*).

The Applicant points out that the contested provision envisages unfounded differential treatment of the students from large families who choose to study outside Latvia because, in such a case, it denies the student the right to receive the social scholarship. The *Saeima*, however, states that the contested provision envisages differential treatment of persons who are in different circumstances and, thus, the principle of equality before law, included in the first sentence of Article 91 of the Constitution, has not been violated.

The contested provision provides for the right of a student below the age of 25 to receive the social scholarship if they have chosen to study at a Latvian higher education institution and meets the requirements defined by the Cabinet. One of the criteria included in the Regulation on Scholarships, which provides detailed criteria with respect to students' right to receive the social scholarship, specifically, in Subpara. 46.8. of this regulation, is - studies in Latvia at a higher education institution, established by the state or other legal and natural persons.

The contested provision does not provide for the possibility to receive the social scholarship to a student from a large family who has chosen to study at a higher education institution outside Latvia. Hence, the treatment, included in the contested provision, of students who study at a higher education institution outside Latvia is differential.

Thus, the contested provision causes differential treatment of groups of persons who are in similar and according to certain criteria comparable circumstances.

17. Upon concluding that the contested provision envisages differential treatment of groups of persons who are in similar circumstances, the Constitutional Court must examine whether this differential treatment has been established by a law, adopted in due procedure, *inter alia*, abiding by the principle of good legislation (*compare, see Judgement by the Constitutional Court of 24 October 2025 in Case No. 2024-16-01, Para. 27*).

The *Saeima* adopted the amendments, by which the contested provision was included into the Law on Higher Education Institutions, on 16 June 2021, they were promulgated on 19 June 2021 in the official publication “*Latvijas Vēstnesis*” No. 118 and entered into effect on 20 June 2021.

The participants in the case have not expressed objections and neither does the Constitutional Court doubt that the contested provision has been adopted and promulgated in the procedure determined in the Constitution and the Rules of Procedure of the *Saeima* and that it is accessible in accordance with statutory requirements. The wording of the contested provision is sufficiently clear, allowing a person to understand the content of the rights and obligations derived from it and to foresee the consequences of application thereof.

The Applicant has stated that he had doubts as to whether the legislator, while drafting the contested provision, has taken into account and assessed the potential risks of infringing fundamental rights, in compliance with the requirements of the principle of good legislation. However, these considerations apply to the assessment of the proportionality of the differential treatment, included in the contested provision, on its merits.

Hence, the differential treatment of persons who are in similar circumstances, envisaged in the contested provision, has been established by a law, adopted in due procedure.

18. In reviewing the compliance of the contested provision with the first sentence of Article 91 of the Constitution, the Constitutional Court must verify whether the differential treatment, established by the contested provision, has objective and reasonable grounds, i.e., whether it has a legitimate aim and whether the proportionality principle has been complied with (*see Judgement by the Constitutional Court of 24 October 2025 in Case No. 2024-16-, Para. 28*).

The Applicant holds that the differential treatment of groups of persons, established by the contested provision, lacks a legitimate aim. If a legitimate aim of the differential treatment could be established then, in the Applicant's opinion, it could be the protection of taxpayers' interests, incentives to choose studies in Latvia, as well as avoiding placing disproportionate administrative burden upon the public administration.

The *Saeima* holds that the legitimate aim of the differential treatment is the protection of public welfare. The *Saeima* points out that the legitimate aim of the contested provision and the differential treatment included therein should be examined in conjunction with the substance of the social scholarship as a social support measure. The criterion defined in the contested provision – studies in Latvia – is directed at attaining several aims, i.e., it facilitates a person's choice to study specifically in the Latvian higher education institutions, diminishes the risks of "brain drain", which jeopardises sustainable national development, as well as facilitates the involvement of persons who have acquired higher education in the Latvian labour market and scientific research activities, thus promoting sustainable socio-economic development of the state.

18.1. It follows from the documents of the legislative procedure that the Cabinet, by instructing the Ministry of Education and Science to prepare and submit an informative report, including elaborated draft legal acts, on the state support to young people from large families for studying at Latvian higher education institutions, already initially had decided that the state support to

students from large families should be awarded specifically for studies at the Latvian higher education institutions (*see Para. 13.1.2. of this judgement*).

Representatives of the Ministry of Education and Science, the Ministry of Welfare, the Ministry of Finance, the Ministry of Justice, the Student Union of Latvia, the Rectors' Council and representatives of the Association of Private Higher Education Institutions and the Latvian Association of Colleges, as well as the advisor to the Prime Minister on demography matters participated in the discussions regarding introduction of the social scholarship, envisaged in the contested provision, that took place at the *Saeima* committees. During the discussions, no objections were expressed regarding the fact that the contested provision did not envisage the right to receive the social scholarship to young people from large families who studied outside Latvia (*see Audio recordings of the sittings of the Education, Culture and Science Commission on 8 and 15 June 2021, as well as the sitting of the Higher Education, Science and Innovation Sub-Committee of the Education, Culture and Science Committee on 25 May. Available: saeima.lv*). The preparatory materials of the contested provision allow concluding that the legislator made a deliberate choice to award the social scholarship to persons from large families to facilitate access to higher education in Latvia for this social group.

18.2. The Constitutional Court has stated that higher education and science not only have an important role in the development, formation of a personality and in ensuring personal welfare but it is also an indispensable precondition for successful development of the state and society in general. The role of education in the social development of the state and society is invaluable and education has been found to be the best investment of all that the state can make. Higher education and science is an essential part of the sustainable development of an individual and the entire society, of the economy and environment. The state's level of welfare is closely related to its investments into education and science. An appropriate level of education and science is a precondition for successful development of every state (*see Judgement by the Constitutional Court of 7 June 2019 in Case No. 2018-15-, Para. 14.1.*).

The differential treatment has been determined in the contested provision to ensure the access of one specific social group, i.e., students from large

families, to Latvian higher education institutions, thus concentrating financial resources for the development of the national system of higher education and protection of socio-economic interests. The fact that young people and educated employees move to other Members States of the European Union to work or to study may decrease the possibilities of growth of the national economy, lead to the lack of employees in sectors of national importance, as well as have a negative impact on the state's demography (*see: Bruzelius C., Kramer D. Free Movement and the Challenge of Emigration: How Does EU Law Structure Redistribution through People? Journal of European Public Policy, 2026*). Students, who acquire higher education abroad, after completing it, may decide to remain for permanent residence in the state where they have acquired higher education and not link their occupation with Latvia. By the criterion of studies in Latvia, included in the contested provision, the legislator has attempted to prevent persons with higher education, *inter alia*, highly qualified specialists, from moving abroad since such drain might have a negative impact on the national socio-economic development and sustainability. The involvement of persons with higher education in the Latvian labour market is directed at the development of national economy. The increase of students at Latvian higher education institutions, in turn, may have a positive impact on the possibility of these institutions to attract financial resources, become modernised and expand their infrastructure, at the same time facilitating the development of the entire Latvian system of higher education. These considerations are closely linked to the general interests of public welfare.

Thus, the legitimate aim of the differential treatment, caused by the contested provision, is the protection of public welfare.

19. The measures chosen by the legislator are suitable for reaching the legitimate aim of the differential treatment if the aim is reached by the particular regulation (*see Judgement by the Constitutional Court of 30 November 2023 in Case No. 2022-36-01, Para. 20*).

The Applicant holds that the measures chosen by the legislator are not suitable for reaching the legitimate aim of the differential treatment, the *Saeima*, however, states that they should be considered suitable for reaching the

legitimate aim of the differential treatment, i.e., public welfare, as they facilitate the choice of students from large families to study specifically at the Latvian higher education institutions.

It follows from the data of the Central Statistical Bureau that, within the period from the academic year of 2014/2015 until the academic year of 2020/2021, the number of students at the Latvian higher education institutions has gradually decreased. I.e., in the academic year of 2014/2015, 85.9 thousand acquired higher education in Latvia; however, in the academic year of 2020/2021, 78.5 thousand students (*see: Official statistics portal. Number of students admitted, currently enrolled and those who have obtained a degree or qualification. Available: stat.gov.lv*). Thus, at the time when the contested provision was adopted, the trend of decreasing number of students was observed in Latvia. Moreover, it follows from the study of 2015 of the Latvian expat communities that, in 2015, 57 per cent of the students of Latvian origin, surveyed abroad, were not planning to return for permanent residence in Latvia until 2019 (*see: Kaša R. Latvijas studentu augstākās izglītības studiju finansēšana ārzemēs. Grām.: Mieriņa I. (zin. red.) Latvijas emigrantu kopienas: cerību diaspora. Rīga: Latvijas Universitātes Filozofijas un socioloģijas institūts, 2015, 99. lpp.*).

The contested provision provides for the right of the students from large families to receive the social scholarship only in the case if they choose to study at the Latvian higher education institutions. This condition for receiving the financing in the form of a social scholarship encourages the students from large families to choose studies specifically at the Latvian institutions of higher education, is directed at attracting students to Latvia and, thus, facilitates the development of the national economy and higher education system. Moreover, it follows from the information provided by the Ministry of Education and Science that, in terms of the receipt of the social scholarship, all regions of Latvia are evenly covered and the students who receive the social scholarship have greater incentives both for continuing the commenced studies and avoiding academic debt (*see Case File, Vol. 2, pp. 27 and 28*).

Hence, the measures chosen by the legislator is suitable for reaching the legitimate aim of the differential treatment.

20. In assessing whether the legislator's actions, by establishing in the contested provision differential treatment of groups of persons in similar circumstances, had been necessary, it must be clarified whether the legislator could have reached the legitimate aim by measures that would be more lenient towards an individual's rights and lawful interests. The Constitutional Court has repeatedly underscored that a more lenient measure is not just any other measure but such a measure that allows reaching the legitimate aim in at least the same quality (*see, for example, Judgement by the Constitutional Court of 30 November 2023 in Case No. 2022-36-01, Para. 21*).

20.1. The Applicant points out as a possible alternative the possibility for the state to create cooperation with the Latvian higher education institutions with the aim of introducing also other instruments for attracting students so that students would choose to study at the Latvian higher education institutions and gives as an example the scholarships of the higher education institutions, established both by the state and private persons, scholarships awarded by patrons and other states.

The autonomy of higher education institutions is included in Article 112 of the Constitution, in conjunction with its Article 113. The autonomy of higher education institutions is the freedom of both state and private higher education institutions to decide on their academic work, standards, and other related matters. Its purpose is to protect higher education from political and economic interference and ensure self-governance of the academic community. Higher education institutions, within the framework of their autonomy, insofar it complies with the general legal principles and the Constitution, may adopt decisions, free from external pressure, to ensure their academic freedom. The autonomy of a higher education institution comprises the right of a higher education institution to develop its institutional strategy, defining its aims and mission, as well as ways for reaching and implementing these (*see Judgement by the Constitutional Court of 11 June 2020 in Case No. 2019-12-01, Para. 25.2., and Judgement of 28 June 2023 in Case No. 2021-45-01, Para. 16.1.*).

Hence, the alternative proposed by the Applicant, i.e., the possibility for the state to cooperate with the Latvian higher education institutions with the purpose of introducing other instruments for attracting students, would be

contrary to the autonomy of higher education institutions, the aim of which is protecting higher education institutions against political and economic interference. Development of cooperation, ensuring scholarships and other instruments for attracting students is a choice within the discretion of higher education institutions and is based on expediency considerations.

Thus, the measure pointed out by the Applicant, i.e., the state's cooperation with the Latvian higher education institutions with the purpose of introducing other instruments for attracting students, cannot be considered as a more lenient alternative measure for reaching the legitimate aim of the differential treatment.

20.2. The Applicant has proposed as an alternative solution case-by-case assessment of those studying abroad, differentiating the approach and inviting the students to cooperate and prove their compliance with the eligibility criteria set for the social scholarship. The Applicant points out that it would be possible to verify whether the persons who wish to study abroad meet the criteria for receiving the social scholarship by using the already existing programme of the certificate of "Latvijas Goda ģimene" [Latvian Honorary Family], established by the Society Integration Foundation, for which also Latvian students studying abroad may apply.

The Constitutional Court concludes that the legislator, in the process of adopting the contested provision, has examined matters related to the effectiveness of administering the social scholarship, including the possible support by "Latvijas Goda ģimene" system, established by the Society Integration Foundation, in the process of administering the social scholarship (*see Audio recordings of the sittings of the Education, Culture and Science Commission on 8 and 15 June 2021, as well as the sitting of the Higher Education, Science and Innovation Sub-Committee of the Education, Culture and Science Committee on 25 May. Available: saeima.lv*). However, such changes to the current system of administering the social scholarship that would be linked to case-by-case assessment of those studying abroad would not allow reaching the legitimate aim of the differential treatment, included in the contested provision, i.e., to attract students from large families specifically to the

Latvian higher education institutions to facilitate the development of national economy and higher education system.

Thus, the measure indicated by the Applicant, which would envisage conducting of case-by-case assessment of the students from large families studying abroad cannot be considered a more lenient alternative measure for reaching the legitimate aim of the differential treatment.

Hence, there are no other, more lenient, measures for reaching the legitimate aim of the differential treatment.

21. In establishing, whether the differential treatment is proportional or appropriate, the Constitutional Court verifies whether the benefit that society gains from such treatment outweighs the damage inflicted upon a person's rights and lawful interests (*see Judgement by the Constitutional Court of 18 October 2018 in Case No. 2017-35-03, Para. 17*).

The Applicant holds that the benefit that society gains from the differential treatment of students from large families who wish to study outside Latvia is neither sustainable nor just. Allegedly, it does not outweigh the damage that the students and their families suffer.

The *Saeima*, however, points out that the social scholarship supports a person's efforts to acquire higher education and facilitates the development of the Latvian system of higher education and of the national scientific and research activities. The social scholarship encourages people to participate in the Latvian labour market and contributes to the development of the national economy. Moreover, the contested provision does not restrict the students' right to choose studies outside Latvia. Hence, the benefit that society gains from the differential treatment, included in the contested provision, outweighs the damage inflicted upon a person's rights and lawful interests.

The Constitutional Court has stated that a system of education, which comprises the level of higher education, is the pre-condition for development of any contemporary society. It is exactly at this level, taking into account the importance of scientific innovations, new ideas are created and the accumulated scientific findings are transferred, facilitating the welfare and sustainable development of society. Higher education institutions should be regarded not

only as institutions of education that prepare specialists of various sectors for work but also as the centres of academic education and science (*see Judgement by the Constitutional Court of 11 June 2020 in Case No. 2019-12-01, Para. 25.1. and 25.2.*).

Undoubtedly, those studying abroad may acquire, alongside higher education, significant professional and academic skills. However, it should be taken into account that the possibility to receive the social scholarship for studies abroad would increase risk of drain of persons who have acquired higher education, including qualified specialists, which the legislator has attempted to prevent with the help of the contested provision. At the time when the contested provision was adopted, a decline in the number of students, as well as the trend that those who studied abroad were not returning after the completion of their studies were observed in Latvia. The moving of young people and educated employees to other Member States of the European Union diminishes the possibilities of growth for the national economy and can also lead to the lack of employees in sectors of national importance (*see Para. 18.2. and 19 of this judgement*).

As has been already concluded, the social scholarship can be considered a privilege, granted within the framework of the legislator's discretion, directed at providing additional support to students from large families who are acquiring higher education specifically in Latvia (*see Para. 13.1.3. of this judgement*). 45 higher education institutions have been registered in Latvia (*see. Data from the National Education Information System on higher education institutions in Latvia. Available: viis.gov.lv*). Subpara. 48.8. of the Regulation, issued on the basis of the contested provision, provides that a student from a large family may receive the social scholarship, irrespective of the chosen higher education institution and the founder thereof. Thus, by the contested provision, the legislator has facilitated access to higher education for persons from large families, moreover, has concentrated resources for reaching such socio-economic aims that facilitate the welfare of the entire Latvian society. Namely, the social scholarship not only makes it easier for the students from large families to acquire higher education in Latvia but is also directed at facilitating the involvement of persons with higher education, including qualified specialists, in

the Latvian labour market, thus leaving a positive impact upon the economic development. Although it is impossible to eliminate the lack of labour force and specialists with higher education, caused by the demographic decline, with the help of the social scholarship, however, it complies with the recommendations for increasing the number of students and graduates at the Latvian higher education institutions (*see.: Universitāšu ieguldījums Latvijas tautsaimniecībā. Rīga: Latvijas Universitāšu asociācija, 2012, 8. lpp.*). By expanding the accessibility of education, development of the system of education is facilitated, i.e., an increase in the number of students may have a positive impact on the possibilities of higher education institutions to attract resources, develop their infrastructure, and modernise their study programmes.

Moreover, it should be taken into account that the students from large families who wish to study abroad have also other possibilities to receive financial support for studies. I.e., students have the possibility to apply, in general procedure, for scholarships offered both by foreign higher education institutions and patrons, as well as international and non-governmental organisations and foreign governments. Latvia has concluded more than 60 intergovernmental and intersectoral agreements on cooperation in education and science and 24 of these provide for reciprocal scholarships. I.e., Latvian students may use foreign scholarships to study, research, give lectures or participate in language and summer courses in these countries (*see: State Education Development Agency. Foreign government scholarships for Latvian students and academic and research staff at higher education and research institutions. Available: viaa.gov.lv*).

Likewise, the contested provision does not restrict the possibilities of the students from large families, while studying at the Latvian higher education institutions, to participate in the activities of academic mobility in other Member States of the European Union, implemented in the framework of the education, training, youth and sports programme “Erasmus+”. Within the framework of this programme, students, during the period of their studies, may receive financial support for studying abroad in the form of a scholarship that is intended for covering the costs related to the academic mobility (*Types and conditions of mobility projects in adult education. Available: erasmusplus.lv*). Moreover,

during this period of study mobility, the possibility to receive the social scholarship, provided for in the contested provision, is retained for the students from large families (*see Para. 49 of the Regulation on Scholarships*).

Thus, the benefit that the society gains from the differential treatment outweighs the damage inflicted upon the students from large families by the prohibition to receive the social scholarship for studies abroad.

Hence, in establishing the differential treatment, the proportionality principle has been complied with and the contested provision, insofar it applies to students from large families, is compatible with the first sentence of Article 91 of the Constitution.

The Substantive Part

On the basis of Article 29 (1) (6) and Article 30–32 of the Constitutional Court Law, the Constitutional Court

held

1. To terminate legal proceedings in the part of the case regarding the compliance of the first sentence of Article 52 (3¹) of the Law on Higher Education Institutions with Article 109 of the Constitution of the Republic of Latvia and Article 21 (1) of the Treaty on the Functioning of the European Union.

2. To declare first sentence of Article 52 (3¹) of the Law on Higher Education Institutions, insofar it applies to students from large families, compatible with the first sentence of Article 91 of the Constitution of the Republic of Latvia.

The judgement is final and not subject to appeal.

The judgement enters into effect on the date of its publication.

The Presiding Judge

Irēna Kucina