

Increased use of Latvian in pre-schools following 2018 education reform did not discriminate against Russian-speakers

In today's Chamber judgment¹ in the case of [Djeri and Others v. Latvia](#) (applications nos. 50942/20 and 2022/21) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 14 (prohibition of discrimination) taken together with Article 2 of Protocol No. 1 (right to education) of the European Convention on Human Rights.

The case concerned 2018 amendments to the law whereby the use of Latvian – the national language – was increased in all pre-schools in Latvia, both public or private, and the use of Russian was consequently reduced.

It followed two other cases [Valiullina and Others v. Latvia](#) (nos. 56928/19 and 2 others, 14 September 2023) and [Džibuti and Others v. Latvia](#) (nos. 225/20 and 2 others, 16 November 2023) concerning, respectively, the 2018 education reform in public and private primary and secondary schools.

The Court found in particular that the measures taken by the Latvian Government to increase the use of the national language in pre-schools had been proportionate and necessary to prepare pupils for primary education, to ensure unity in the education system and to ensure a sufficient level of Latvian for residents to participate effectively in public life.

Principal facts

The applicants are either Latvian nationals or “permanently resident non-citizens” of Latvia. They are parents and children who identify as part of the Russian-speaking minority in Latvia, and live in Riga and Jūrmala (Latvia).

Background

Under the law, Latvian is the only national language (*valsts valoda*) of Latvia. However, after Latvia re-emerged as an independent State, education continued in Latvian and Russian, as had been done in Soviet times. Over time, education reforms led to more subjects being taught in Latvian and more use of Latvian in schools.

Pre-school education in Latvia forms part of the general education system and consists of two separate stages: the first one for young children (one and a half to five) and the second for slightly older children (five to seven). While children have access to the first stage of pre-school education from the age of one and half, only the second stage of pre-school education (for children aged five to seven) is compulsory.

In November 2018 a new regulation for pre-school education (Cabinet Regulation no. 716 (2018)) was adopted, which provided that, as of 1 September 2019, the main language of communication in play-based lessons for children aged five and over had to be Latvian, except for in targeted activities

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

organised to help children master the minority language and ethnic culture. Those requirements applied to general and special pre-school education programmes for minorities.

Circumstances of the case

The applicants in the case were either children or parents of children who attended pre-schools in Latvia. All speak Russian at home and were all born in Latvia. They consider themselves ethnic Russians. One of the children received a pre-school education in accordance with the special minority pre-school education programme for children with speech impairments, whereas the others were pre-schooled in accordance with the general pre-school education programme for minorities.

The Constitutional Court (*Satversmes tiesa*) reviewed the domestic legislation concerning the use of Latvian in all pre-schools in case no. 2019-20-03. Several of the applicants in *Djeri and Others* were parties to that case.

The Constitutional Court examined the case in respect of children and parents, and issued its judgment on 19 June 2020, concluding that the right to education as enshrined in the Constitution included both stages of pre-school education in Latvia. Although it found that there was no right to education in the language of one's choice, the court examined the case from the perspective of the State's positive obligations to ensure quality education under Article 112 of the Constitution. It clarified that a bilingual approach could be used throughout pre-school education in both stages.

As regards the rights of minorities (Article 114 of the Constitution), the court established that the amendments ensured that pupils who belonged to the Russian minority could learn Russian and learn about Russian culture and thereby safeguard and develop their identity and culture.

As regards the principle of non-discrimination (Article 91 of the Constitution), the Constitutional Court held that speakers of minority languages were not in a comparable situation to speakers of Latvian. The Constitutional Court also analysed the provisions in detail and concluded that positive measures had been taken to ensure that children with special needs were integrated into the Latvian education system and therefore also society in the best possible way, by being taught how to master the Latvian language within the limits of their abilities.

Complaints, procedure and composition of the Court

Relying on Article 2 of Protocol No. 1 (right to education) and Article 8 (right to respect for private and family life) of the European Convention taken alone and in conjunction with Article 14 (prohibition of discrimination), the applicants complained, in particular, that the 2018 amendments restricted their right to private and family life, the right to education and alleged that the difference in treatment between Russian-speaking and Latvian-speaking pupils in pre-schools amounted to discrimination. Two of the applicants also alleged discrimination against Russian-speaking pupils with special needs because the Latvian education system did not provide for special regulation of the use of national language in the education of such children.

The applications were lodged with the European Court of Human Rights on 4 November 2020 (no. 50942/20) and 18 December 2020 (no. 2022/21).

Judgment was given by a Chamber of seven judges, composed as follows:

Mattias **Guyomar** (France), *President*,
Lado **Chanturia** (Georgia),
Carlo **Ranzoni** (Liechtenstein),
Mārtiņš **Mits** (Latvia),
Stéphanie **Mourou-Vikström** (Monaco),
Mykola **Gnatovskyy** (Ukraine),

Stéphane Pisani (Luxembourg),

and also Martina Keller, Deputy Section Registrar.

Decision of the Court

Article 8

As in *Džibuti and Others*, the Court found the complaints under this Article inadmissible for [non-exhaustion of domestic remedies](#). While some applicants had not lodged any complaints with the Constitutional Court, others had failed to raise the relevant arguments or provide necessary legal reasoning before the Constitutional Court and did not comply with the domestic-law criteria.

Article 2 of Protocol 1

As in *Valiullina and Others* and in *Džibuti and Others*, the Court considered that Article 2 of Protocol No. 1 did not include the right to access education in a particular language; it guaranteed the right to education in one of the national languages only. As Latvian was the only official language in Latvia and students would continue to receive instruction via that language, and as the applicants had failed to show that there were any adverse consequences on their possibility to obtain an education, the Court ruled the complaint under this Article alone inadmissible.

Article 2 of Protocol 1 taken in conjunction with Article 14

The Court noted that there were two separate stages of pre-school education in Latvia, both of which were part of the State educational system, but had different features, aims and goals. Article 2 of Protocol No. 1 taken together with Article 14 was applicable to the second stage of pre-school education which was compulsory (children aged five to seven) but not to the first stage which was optional (children aged one and a half to five). In any event, the applicants' complaints about the first stage of pre-school education were inadmissible for non-exhaustion of domestic remedies.

The Court considered that the child applicant born in 2020 had not yet been directly affected by the 2018 amendments as she had not yet attended the second stage of pre-school education and could not be considered to be a victim of the alleged violation. In contrast, the complaint raised by the other applicants was found to be admissible.

As the applicants had argued that the use of Russian in the family had been the basis for the discrimination, the Court examined the case with regard to language as being the sole basis for the difference in treatment between the applicants and speakers of the national language.

The Court considered that Russian-speaking pupils and Latvian-speaking pupils were in a relevantly similar situation as regards pursuing their pre-school education following the 2018 amendments.

As in *Valiullina and Others* and *Džibuti and Others*, the Court considered that strengthening Latvian after decades of Soviet domination, and unity in and facilitation of equal access to the education system, were legitimate aims. In addition, in this case, there was a further aim of preparing pre-school children for primary education.

As regards the proportionality of the 2018 amendments, the Court again referred to its findings in *Valiullina and Others* and *Džibuti and Others*. In particular, the State, since re-establishing its independence had had to take steps to correct factual inequalities that had existed before then and also ensure that minority groups could learn their language and preserve their culture. At the same time, it had had to ensure that minority groups learned enough of the national language to, among other things, participate effectively in public life.

The Court emphasised the importance of early learning in the mother tongue for children's overall development and that this may be seen as calling for the States to be afforded narrower discretion.

However, while primary education was compulsory in most countries, that was not the case for pre-school education. Thus, the States had somewhat wider discretion as regards pre-school education. In restoring the use of Latvian as the language of instruction and gradually implementing the education reform with respect to pre-school education, Latvia had not overstepped that discretion, as it had maintained Russian-speaking pupils' ability to learn their language and preserve their culture and identity at the second stage of pre-school education. The Court concluded that the State had put in place an education system in the official language of the State, while also ensuring the use of minority languages at the second stage of pre-school education. Therefore, the difference in treatment was consistent with the legitimate aims pursued and proportionate, and did not amount to discrimination on the grounds of language. There had accordingly been no violation of Article 14 taken in conjunction with Article 2 of Protocol No. 1 to the Convention.

As regards the complaint raised by two of the applicants on account of alleged discrimination against Russian-speaking children with special needs, the Court did not exclude the possibility that there might be some specific circumstances where the principle of reasonable accommodation could require the State to ensure that pupils with special needs had some parts of their pre-school education in their mother tongue, in order to effectively prepare them for primary education. However, it considered that the allegations of discrimination had not been substantiated in this case. Both groups of pupils (Russian-speaking children with special needs and Russian-speaking children without special needs) could learn their mother tongue within the education system in Latvia. Accordingly, there had been no discrimination, and therefore no violation of Article 14 taken in conjunction with Article 2 of Protocol No. 1.

The judgment is available only in English.

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Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

We are happy to receive journalists' enquiries via either email or telephone.

Jane Swift (tel: + 33 3 88 41 29 04)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Neil Connolly (tel: + 33 3 90 21 48 05)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.