



A case initiated with respect to a norm that regulates the right of the cassation instance court to refuse initiating cassation legal proceedings in a civil case

On 5 July 2019, the 3rd Panel of the Constitutional Court initiated the case “On Compliance of Section 464¹ (3) of the Civil Procedure Law with the first sentence of Article 91 and the first sentence of Article 92 of the *Satversme* of the Republic of Latvia”.

The Contested Norm

Section 464¹ (3) of the Civil Procedure Law:

“If a cassation complaint formally complies with the requirements referred to in the first part of this Section and if the court has not breached the provisions of Section 452 (3) of this Law and the case to be examined has no significant meaning for ensuring a unified case-law or further formation of law, the judicial collegium may refuse to initiate cassation proceedings also in disputes of a financial nature, if the part thereof, in which the judgment is appealed, is less than EUR 2000.”

Norms of Higher Legal Force

The first sentence of Article 91 of the *Satversme*: “All human beings in Latvia shall be equal before the law and the courts.”

The first sentence of Article 92 of the *Satversme*: “Everyone has the right to defend his or her rights and lawful interests in a fair court.”

The Facts of the Case

The case has been initiated on the basis of Mihail Kondakov’s application. In accordance with the contested norm, the cassation instance court refused to initiate cassation legal proceedings in a civil case on the basis of his cassation complaint.

The Applicant holds that, substantially, the contested norm establishes a restriction of financial nature on hearing a case in cassation procedure. Hence, it is alleged that the contested norm restricts a person's right to a fair trial, established in the first sentence of Article 92 of the *Satversme*. At the same time, the Applicant notes that the contested norm establishes unfounded differential treatment of persons, who appeal in cassation procedure against the judgement by an appellate instance court in a dispute of financial nature in the part the amount of which is less than EUR 2000, and persons, who appeal in cassation procedure against the judgement by an appellate instance court in a dispute of financial nature in the part the amount of which is at least EUR 2000 or a dispute of non-financial nature. It is contended that, therefore, the contested norm is incompatible also with the equality principle included in the first sentence of Article 91 of the *Satversme*.

The applicant holds that the restriction on fundamental rights included in the contested norm has a legitimate aim, i.e., decreasing the burden of the cassation instance court; however, this restriction is said to be disproportional. The Applicant holds that the contested norm does not ensure significant decrease in the burden of the cassation instance court and that other measures exist for reaching the aforementioned legitimate aim that would restrict persons' fundamental rights to a lesser extent. Moreover, it is alleged that the benefit that society gains from this restriction on fundamental rights does not outweigh the damage inflicted by it on a person's rights and lawful interests.

The Legal Proceedings

The Constitutional Court has requested the *Saeima* to submit a written reply on the facts of the case and the legal reasoning by 5 September 2019.

The term for preparing the case is 5 December 2019. The Court will decide on the type of procedure and the date for hearing the case after it has been prepared.

The press release was prepared with the aim to facilitate understanding of cases heard by the Constitutional Court. It shall not be regarded as part of the ruling and is not binding to the Constitutional Court. The judgements, decisions and other information regarding the Constitutional Court are available at the homepage of the Constitutional Court www.satv.tiesa.gov.lv.

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