



The norm of the Civil Procedure Law, which does not envisage repayment of the State fee paid for the notice of appeal if a formal requirement is not met, complies with the *Satversme*

On 16 July 2020, the Constitutional Court delivered the judgement in case No. 2020-05-01 “On Compliance of Section 37 (1) of the Civil Procedure Law, insofar it does not Envisage Repayment of the State Fee Paid of a Notice of Appeal if the Notice of Appeal is Dismissed, with the First Sentence of Article 91 of the *Satversme* of the Republic of Latvia”.

The Contested Norm

Section 37 (1) of the Civil Procedure Law, which provides for the cases, in which the State fees must be repaid fully or partly.

The Norm of Higher Legal Force

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

The Facts

The case was initiated on the basis of an application submitted by the Riga Regional Court. The applicant holds that Section 37 (1) of the Civil Procedure Law, insofar it does not envisage the repayment of the State fee that has been paid in the case, where the notice of appeal is dismissed because the procedural document does not comply with the formal requirements set for it, could be incompatible with the equality principle, enshrined in the first sentence of Article 91 of the *Satversme*.

Section 37 (1) of the Civil Procedure Law, which indicates the cases, where the State fee must be repaid in full or partly, does not include one particular case, i.e., the dismissal of the notice of appeal because the procedural document does not comply with the formal requirements set for it. The applicant holds that, in this case, an action similar to Para 2 of Section 37 (1) of the Civil Procedure Law would be required, i.e., the State fee that had been paid should be repaid in full or partly if the court refuses to accept the notice of appeal.

The applicant has decided to suspend the legal proceedings in the case it was hearing and turn to the Constitutional Court, requesting it to review the compliance of the contested norm with the first sentence of Article 91 of the *Satversme*.

The Court's Findings

On whether the legal proceedings in the case should be terminated

In its written response, the *Saeima* has requested the Constitutional Court to terminate legal proceedings in the case on the basis of Para 6 of Section 29 (1) of the Constitutional Court Law, which provides that legal proceedings may be terminated before the judgement is delivered in those cases, where it is impossible to continue legal proceedings in the case. Allegedly, the State's obligation to ensure equal treatment of all groups of persons, indicated by the applicant, does not follow from the first sentence of Article 91 of the *Satversme* because, in the *Saeima's* opinion, they are in different circumstances. [7.]

The Constitutional Court concluded that the arguments presented by the *Saeima* had to be verified by hearing the case on its merits. Hence, the Constitutional Court recognised that legal proceedings in the case should be continued. [7.]

On comparable groups of persons in the case

The applicant holds that persons, who pay the State fee upon submitting the statement of claim to the first instance court, are in a comparable situation with those persons, who pay the State fee, upon submitting a notice of appeal. It is alleged that, in both situations, persons turn to the court so it would accept the procedural documents that are the basis for initiating legal proceedings and would initiate legal proceedings. [9.]

The Constitutional Court concluded that the shared characteristics of the groups, identified by the applicant, was the dismissal of the procedural documents that were the basis for initiating legal proceedings due to failure to meet a formal requirement; i.e., if the procedural documents had been submitted by a person without due authorisation. [9.]

In the present case, the *Saeima* points to the exceptional nature of the contested norm and underscores that the groups, identified by the applicant, are not in comparable circumstances. The Constitutional Court recognised the arguments presented by the *Saeima* as valid. The initiation of legal proceedings in the first instance court and the initiation of appellate legal proceedings are different institutions of law. Hearing a civil case in the first instance court is a mandatory stage of civil proceedings, whereas the appellate legal proceedings is an optional stage of legal proceedings, in which the court hears the case only in the part that is appealed, reviewing the legality of the ruling made by the first instance court. In the contested norm, the legislator has listed exhaustively the exceptional cases, in which it has decided on the repayment of the State fee, and these are not comparable, in particular, in different stages of the civil proceedings. [10.]

At the same time, the Constitutional Court underscored that, since the civil procedure formed a united system of public legal relationships, its regulation had to be defined in compliance with the obligation of a state governed by the rule of law, which followed from Article 92 of the *Satversme*, to ensure in each judicial instance such a procedure that would ensure that, with the development of legal relationships and understanding thereof,

the effectiveness of the right to a fair trial and trust in the court system would not diminish.
[10.]

The Constitutional Court held:

to recognise Section 37 (1) of the Civil Procedure Law, insofar it does not envisage repayment of the State fee paid of a notice of appeal if the notice of appeal is dismissed due to its incompatibility with formal requirements, as being compatible with the first sentence of Article 91 of the *Satversme* of the Republic of Latvia.

The judgement by the Constitutional Court is final and not subject to appeal, it will enter into force on the date of its publication. The judgement will be published in the official journal “Latvijas Vēstnesis” within the term set in Section 33 (1) of the Constitutional Court Law.

The text of the judgement in Latvian is available on the homepage of the Constitutional Court: http://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2020/01/2020-05-01_Spriedums.pdf#search=

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 judgement 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.

Ketija Strazda

Head of Public Relations and Protocol Department
of the Constitutional Court

Ketija.Strazda@satv.tiesa.gov.lv
+ 371 67830749, + 371 26200580