



THE CONSTITUTIONAL COURT OF THE REPUBLIC OF LATVIA

Riga, June 26, 2001

JUDGMENT in the name of the Republic of Latvia

in case No. 2001-02-0106

The Constitutional Court of the Republic of Latvia in the body of the Chairman of the Court session Aivars Endziņš, justices Romāns Apsītis, Ilma Čepāne, Juris Jelāgins, Andrejs Lepse, Ilze Skultāne and Anita Ušacka

under Article 85 of the Satversme (Constitution) of the Republic of Latvia, as well as the first and sixth Paragraphs of Article 16, Paragraph 3 (the first part) of Article 17 and Article 28¹ of the Constitutional Court Law,

on the basis of the claim on initiating the case, submitted by twenty Saeima deputies, i.e., Miroslavs Mitrofanovs, Aija Barča, Leons Bojārs, Pēteris Salkazanovs, Jānis Leja, Egils Baldzēns, Aleksandrs Bartaševičs, Andrejs Klementjevs, Jānis Ādamsons, Pāvels Maksimovs, Jānis Urbanovičs, Boriss Cilēvičs, Jakovs Pliners, Juris Sokolovskis, Modris Lujāns, Aleksandrs Golubovs, Jānis Jurkāns, Oļegs Deņisovs, Oļegs Tolmačovs and Boris Rastopirkins

holding the proceedings in writing, reviewed the case

"On Compliance of Transitional Provisions (Paragraph 1 on length of insurance of foreign citizens and stateless persons whose permanent place of residence till January 1, 1991 has been the Republic of Latvia) of the Law "On State Pensions" with Articles 89, 91 and 109 of the Satversme (Constitution) of the Republic of Latvia as well as with Article 14 of the November 4, 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 1 of the First Protocol of the Convention".

The Constitutional Court **established:**

On April 6, 1993 the Supreme Council of the Republic of Latvia passed the Resolution "On the Accession to the May 23, 1969 Vienna Convention on the Law of International Treaties" and ratified the Vienna Convention. The Convention determines that the member states shall recognise the importance of the agreement as the international legal source in developing peaceful co-operation among the states without taking into consideration any constitutional differences or differences of the public system.

On June 4, 1997 by passing the Law "On the November 4, 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and its 1., 2., 4., 7. and 11. Protocols" the Saeima ratified the Convention for the Protection of Human Rights and Fundamental Freedoms (henceforth- the Convention) and its 1., 2., 4., 7. and 11. Protocols.

On December 17, 1993 the Latvian government concluded the international agreement "The Agreement between the Government of the Republic of Latvia and the Government of the Republic of Lithuania on the Co-operation in the Field of Social Insurance". The Saeima ratified it by the November 10, 1994 Law "On the Agreement between the Government of the Republic of Latvia and the Government of Lithuania on the Co-operation in the Field of Social Insurance".

On May 28, the Latvian government concluded the international agreement "The Agreement between the Government of the Republic of Latvia and the Government of Estonia on the Co-operation in the Field of Social Insurance". The Agreement was ratified by the Saeima with the August 22, 1996 Law "On the Agreement between the Government of the Republic of Latvia and the Government of the Republic of Estonia on Co-operation in the Field of Social Insurance".

On February 26, 1998 the Latvian government concluded the international agreement "The Republic of Latvia and Ukraine Agreement on Co-operation in the Field of Social Security" which was ratified by the Saeima with the May 7, 1998 Law "On the Republic of Latvia and Ukraine Agreement on Co-operation in the Field of Social Security".

On May 11, 1999 the Latvian Government concluded the international agreement "The Social Security Agreement between the Republic of Latvia and the Republic of Finland". On October 28, 1999 the Saeima ratified it by the Law "On the Social Security Agreement between the Republic of Latvia and the Republic of Finland".

On March 15, 2001 by the Law "On the European Provisional Agreement on Schemes of Social Security, Referring to Old Age, Disability and Loss of the

Supporter as well as its Protocol” the Saeima ratified the December 11, 1953 European Provisional Agreement on Social Security Schemes, which can be attributed to cases of old age, disability and loss of the supporter as well as to its Protocol. It will become effective in compliance with the procedure envisaged in Article 13 of the Agreement.

The submitter of the application – twenty deputies of the Saeima-challenges compliance of Item 1 of the Transitional Provisions - namely its part on the length of insurance necessary for foreign citizens and stateless persons whose permanent place of residence till January 1, 1991 has been the Republic of Latvia – (henceforth- the disputable norm) of the Law ”On State Pensions” (henceforth- the Pension Law) with Article 89, 91 and 109 of the Satversme (Constitution) of the Republic of Latvia (henceforth- the Satversme), as well as the compliance with Article 14 of the Convention and Article 1 of the First Protocol of the Convention.

The applicant points out that the disputable legal norm limits the right of permanent residents of Latvia- non-citizens, foreign citizens and stateless persons- to the state pension. The years worked outside of Latvia up to January 1, 1991 are not included in the length of insurance necessary for calculating and granting of the state pensions to the above persons, even though up to January 1, 1991 all the residents of Latvia- citizens, non-citizens, foreign citizens and stateless persons made the same in-payments and the length of service to receive the pension was calculated on the basis of the same unified social insurance system and on the same principles.

The petitioner is of the opinion that Article 91 of the Satversme, determining that ” all persons within the Republic of Latvia are equal before the law and the courts. Human rights shall be implemented without any discrimination” has been violated as has been violated Article 109 of the Satversme, establishing that ” everyone has the right to social guarantees for old age, work disability, unemployment and other cases determined by law”. The applicant points out that the word ”everyone” means every inhabitant of Latvia, including non-citizens, foreign citizens and stateless persons. The petitioner holds that Article 89 of the Satversme determining that ” the State recognises and protects the fundamental rights of a person in accordance with this Constitution, the laws and international agreements binding on Latvia” has also been violated.

The applicant stresses that Article 14 of the Convention determining that ” rights and freedoms included in the Convention shall be implemented without any discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, belonging to any national minority, property, birth or other status.” The applicant points out that the notion ” discrimination on the ground of other status” in the practice of the European Court of Human Rights is interpreted also as discrimination on the

ground of citizenship. The applicant maintains that the European Court of Human Rights in its Judgement in case *Gaygusuz v. Austria* has reached the decision that it is not allowed to limit the right of the person to premature receiving of the age pension just because the person does not have Austrian citizenship. The Court has concluded that really important reasons are needed to justify differentiated attitude only on the principle of citizenship. In the same way the applicant holds that Article 1, Protocol 1 of the Convention, the first part of which determines that " every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law." The applicant concludes that in the conception of the Convention the right to pension and social benefit shall be considered the right to enjoy one's possessions.

In their objection letter, submitted to the Constitutional Court, the authorised representative of the applicant M.Mitrofanovs expresses the viewpoint that in their legal status the non-citizens are connected only with Latvia and not any other state. Thus they are not able to realise their right to social security in foreign countries (as has been mentioned in the written reply of the Saeima). Besides the representative of the petitioner maintains that the distinction, incorporated in the disputable legal norm, has been well grounded neither by economic nor social causes. The laws of Latvia, regulating the legal status of the citizens and non-citizens, do not determine the above differences. Moreover, the above theses may be substantiated by the fact that when being granted citizenship through the process of naturalisation, the non-citizens automatically obtain the right of receiving social security also for the years of work outside of Latvia.

The representative of the applicant referred to the certificate by the State Social Security Agency No 01/3039, pointing out that at the present moment there were 13 298 persons in Latvia whose permanent place of residence on January 1, 1991 was Latvia and who up to January 1, 1991 had worked in foreign countries. To his mind limitation of the rights of so many people could not be considered as well grounded.

The representative of the petitioner emphasises that there was the possibility of solving the pensioning issues connected with international agreements on the principles of reciprocation only as regards foreign citizens but not as regards non-citizens who have legal ties only with Latvia and no other countries.

The representative of the petitioner requested the Constitutional Court to declare the disputable norm null and void from the moment of its adoption.

The Saeima - the institution, which has passed the disputable act- in its written reply to the Constitutional Court pointed out that Article 109 of the Satversme envisages the right of everybody to social guarantees in old age, however neither a definite age giving the right of receiving the pension nor a

specific scheme of calculating has been mentioned. The Article does not regulate any other issues connected with social insurance in old age either. These issues are in the authority of the Saeima and the Saeima solves them by passing laws under general procedure. The Pension Law regulates social insurance in old age and its objective is to establish the principles of compulsory state pension insurance system- based on insurance premiums- and procedure for providing state social insurance pension in case of old age (Article 2). In accordance with this Law persons covered by compulsory state pension insurance are entitled to state social insurance pension (Article 3). Persons covered by compulsory state pension insurance are not differentiated on national belonging, the main factor being the status of the socially insured person and the length of insurance. The legislator, when establishing the system for social insurance in old age, has taken into consideration the principle of equality.

Paragraph 1 of the Transitional Provisions of the Pension Law regulates cases, guaranteeing the right of receiving old age pension with regard to the period before January 1, 1991. The necessity to adopt the disputable norm was caused by the fact that at that time Latvia was renewing the state sovereignty. The procedure of receiving old age pension had to be elaborated to guarantee every person social insurance in old age also after regaining independence. Besides the procedure had to be adjusted to the new pension calculating system. The only difference in Paragraph 1 of the Transitional Provisions of the Pension Law refers to stint abroad outside Latvia up to January 1, 1991: for employment periods abroad foreign citizens and stateless persons are not granted old age pension. As regards employment periods in Latvia the above persons have the right of receiving the same social insurance as the Republic of Latvia citizens in full extent. The Saeima holds that the disputable legal norm does not forbid the person to request the state, in the territory of which the person has worked, to take into consideration the length of the employment and guarantee old age social insurance. The Saeima is of the viewpoint that issues like the above shall be solved in accordance with the reciprocation principle and with the help of interstate talks. Thus the issue is in the sphere of competence of concluding international agreements with particular states and not that of the State laws. Latvia has concluded such agreements with four states - Lithuania, Estonia, Ukraine and Finland.

In its written reply the Saeima points out that the disputable norm contradicts neither Article 1 of the First Protocol of the Convention nor Article 14 of the Convention. Article 1 of the First Protocol of the Convention determines the right of a person to enjoy his possessions. However, in conformity with the practice of the European Court of Human Rights, the right to possessions in the interpretation of the above Article does not automatically guarantee the right to old age pension. Besides, any differences in application of rights shall not be regarded as discrimination. The Saeima holds that the

right to receive old age social insurance as it is fixed in the disputable norm, is not included in Article 1 (the First Protocol of the Convention).

The Constitutional Court, evaluating conformity of the disputable legal norm with the legal norms of higher legal force

concluded:

1. On May 4, 1990 the Supreme Council of the Republic of Latvia adopted the Declaration "On the Renewal of the Independence of the Republic of Latvia" (henceforth- the Declaration). Its Item 8 determines: "To guarantee citizens of the Republic of Latvia and those of other states permanently residing in Latvia social, economic and cultural rights as well as those political rights and freedoms which comply with the universally recognised international human rights instruments. To apply these rights in full extent also to those citizens of the USSR who will express the desire to continue residing in the territory of Latvia without accepting its citizenship."

On November 29, 1990, half a year after adopting the Declaration, the Republic of Latvia Supreme Council passed the Law "On State Pensions". The right to a State pension was guaranteed to all residents of Latvia whose permanent place of residence at the moment of this Law taking effect i.e. on January 1, 1991 has been the Republic of Latvia. The Law envisaged 2 types of the state pension: employment pensions (age, disability, loss of the supporter and long-service pensions) and social pensions. Persons who have been covered by the Republic of Latvia social insurance during their employment period are entitled to the employment pension. The Law guaranteed social pensions to persons who were not entitled to the employment pension. Thus – in the interpretation of this Law – the notions "the state pension" and "social insurance in old age" are identical. Article 44 of the Law determines that the Republic of Latvia citizens as well as foreign citizens and stateless persons, who have arrived from other states and have not been employed by the Republic of Latvia enterprises and institutions, shall be granted pensions according to the agreements with these states. If there are no such agreements, social pensions shall be granted. Thus pensions to persons of the above groups were calculated on equal rules and taking into consideration the principles fixed in the Declaration.

The pension system was based on the previous principles of pensioning, i.e., on the principles of redivision, which did not encourage the interest of the employed in ensuring their old age security. While strengthening the state independence of Latvia, the necessity arose to elaborate a new pension system, which would comply with the principles of the European Union.

Evaluating the economic and demographic situation of the State, its resources and other circumstances, on November 2, 1995 the Saeima adopted a new Law with the same title "On State Pensions" (the Pension Law), which took effect on January 1, 1996. Paragraph 1 of the Transitional Provisions of the Law determines that for foreign citizens and stateless persons whose permanent place of residence till January 1, 1991, has been the Republic of Latvia provision on length of insurance shall be applied only for the employment periods in Latvia and periods regarded as equal to those. Employment periods accumulated abroad – outside Latvia, up to January 1, 1991 and periods regarded as equal to them shall not be included in the length of insurance, with an exception of those mentioned in sub-paragraphs 4., 5. and 10.: period of studies at higher educational institutions, as well as other educational institutions after secondary education; period of full-time post-graduate studies, period of post-diploma education and refresher courses; periods spent in places of imprisonment, deportation and exile by politically repressed persons- in threefold amount, but in the extreme North and regions regarded as equal to the extreme North – in fivefold amount.

The pension system implemented in Latvia has received a high international appraisal. Positively evaluated is the fact that the classical principle of solidarity of generations has been radically changed: money earned by the working generation is paid to the present pensioners, at the same time there also exists another insurance principle – every person may pay contributions to the pension fund. Progressive is the principle that – when calculating the amount of the pension – duration of life is taken into consideration. International experts are of the opinion that all social issues shall not be solved by pension policy, as any step in this direction may endanger long-term stability of the pension system. And that is inadmissible (*See "On International Appraisal of the Latvian Pension System". Latvijas Vēstnesis No.57, April 10, 2001*).

With the adoption of the Pension Law the norm that the amount of the state pension shall depend on length of insurance and insurance principles of mandatory insurance premium payment were introduced in Latvia. Length of insurance consists of employment periods envisaged by the Law and periods regarded as equal to them and not taking into consideration the citizenship of the person.

2. The right to one's possessions, fixed in Article 1 of the Convention (the First Protocol), is one of the most important fundamental human rights. The European Court of Human Rights in its practice has come to the conclusion that the Article consists of three separate norms: firstly, it envisages the right to peaceful enjoyment of one's possessions; secondly, it determines conditions under which the person may be deprived of his possessions and thirdly, it acknowledges that the state may control the use of property in accordance with the general interest and enforce such laws

as it deems necessary. (See *Judgments of the European Court of Human Rights in cases Marckx v. Belgium and Sporrang and Lönnroth v. Sweden*).

The European Court of Human Rights in its practice evaluates compliance of any claim with the above Article, determining criteria in any case anew. The definition of possessions in the interpretation of the Convention may not be automatically applied to all the claims. It is necessary to evaluate the connection between the right to the particular pension or grant and the obligation to pay taxes and other contributions to establish it. Right or interest must be sufficiently established. A person complaining of an interference with his property must show that such right existed.

Besides the European Court of Human Rights has differentiated the system envisaging creation of individual shares, the amount of which can be determined at each particular moment from the system according to which the relation between the contributions being paid and the later benefit is much looser. The last one is less adequately definable. But the object of possessions must be adequately definable (See *"Theory and Practice of the European Convention on Human Rights."* Third edition by P.van Dijk, G.J.H.Hoof. Kluwer Law International, the Hague-London-Boston, 1998, pp.618-625).

To establish whether the disputable norm concerns the right to possessions, nature of the pension system shall be evaluated. The new pension scheme is the "property" creating system. It is based on the principle that a person has made payment into definite funds, creating an individual share. The amount of it can be determined at any moment. In this case the person obtains the right to possessions in the interpretation of the Convention. The applicant makes a reference to case *Gaygusuz v. Austria*. The European Court of the Human Rights, when reviewing the above case established a link between the type of the grant, which the Austrian laws denied the petitioner and payment of contributions to the unemployment insurance fund. Thus the Court applied Article 1 of the First Protocol of the Convention to the claim. (See *Judgment of the European Court of Human Rights in case Gaygusuz v. Austria*).

In its turn the pension system which existed in Latvia up to January 1, 1991 was based on the principle of solidarity, which determines the responsibility of the community as a whole and does not create a link between the payment of contributions and the amount of the pension. If the principle of solidarity is in force, it is impossible to establish what share (part) of the fund belongs to an individual participant. Therefore the right to "possessions", which is protected by Article 1 of the First Protocol of the Convention, is not created. The system does not create for the individual any claim to an identifiable share, but only an expectation,

the amount of which depends on the conditions prevailing at the time the pension is being paid. The pensions of this system are based on the principle of collective security and cannot be granted by evaluating individual contributions. There may be a right to certain benefits as long as the system is in force and the participant fulfils the prevalent conditions. However even in that case it is not the right to a particular amount, since it may be subject to fluctuations, *inter alia* due to legal regulations (*See Theory and Practice of the European Convention on Human Rights, p. 621*).

Thus the disputable legal norm does not concern the right to possession and is not at variance with Article 1 of the First Protocol of the Convention. Thereby ungrounded is the statement of the applicant that the disputed legal norm contradicts Article 14 of the Convention.

3. Article 109 of the Satversme establishes that everyone has the right to social guarantees for old age, work disability, unemployment, not specifying the above. The term "social guarantees in old age" includes not only disbursement the person receives in compliance with schemes of social insurance but also other social benefits as well.

Well-grounded is the viewpoint, expressed in the written reply of the Saeima, namely, that the above norm of the Satversme establishes neither particular age nor both- the amount of the pension and specific conditions of the pension scheme. With the above norm the Satversme does not guarantee identical amount of old age pension to all persons. In the same way it does not guarantee that all persons have the right of receiving old age pensions at one and the same age. Thereby the norm envisages and permits certain differences in receiving social insurance.

It should be taken into consideration that under the new pension system several laws determine the right to social security. For example, the Pension Law establishes the range of persons who are entitled to receive the state pension. The Law "On Social Aid" in its turn is aimed at establishing the range of persons entitled to social allowances and social aid if - in compliance with the Pension Law - they have no right of receiving the state pension. Thus the legislator guarantees social security in old age to everybody, whose permanent place of residence on January 1, 1991 was Latvia, regardless of his/her citizenship.

In the conception of the Pension Law the notion "the state pension" or "social insurance pension", to which the disputable legal norm refers, is just one of the types of old age social insurance. Thereby the disputable legal norm does not limit the right of a person to social guarantees for old age, established in the Satversme and is not at variance with Article 109 of the Satversme.

4. The right determined in Article 91 of the Satversme, namely, that human rights shall be implemented without any discrimination applies to equal human rights. However it does not mean that they should be identical. In a democratic society equality allows a differentiated approach, if it can be justified. Thus – reasons of the differentiated approach have to be evaluated.

The disputed legal norm refers to the sector of social rights. In constitutional laws and international human rights instruments social rights are regarded as a specific sector of human rights, which is defined as general obligations of the state. Legislator of any state may elaborate the regulating mechanism of the above. Realisation of social rights depends on the economic situation of the state and available resources.

From the moment of the Pension Law taking effect, every resident of Latvia, regardless of citizenship, is entitled to the state social insurance pension, if he is a socially insured person and has the envisaged length of insurance. Paragraph 1 of the Transitional Provisions of the Law in its present wording was adopted under the new pension system to regulate the issue of the employment period accumulated till January 1, 1991 as well as periods equal to it, to include them in the length of insurance. Besides, one has to take into consideration that the disputable legal norm applies only to the range of persons, who were entitled to receive the state pension from January 1, 1996.

Employment periods (accumulated in the territory of Latvia) of foreign citizens and stateless persons, whose permanent place of residence on January 1, 1991 was Latvia, just as the employment periods of the citizens of Latvia, are included in the length of insurance. Thus the State of Latvia has undertaken the responsibility about every permanent resident of Latvia for his/her employment period in the territory of Latvia.

The nature and principles of the Latvian pension system objectively justify the differentiated approach, determined in the disputable legal norm. Therefore in the conception of the Satversme it may not be regarded as discrimination. Thereby the disputable legal norm does not contradict Article 91 of the Satversme.

As the disputable legal norm is not at variance with Articles 91 and 109 of the Satversme, Article 14 of the Convention and Article 1 of the First Protocol of the Convention, it – in compliance with the Satversme and international agreements binding on Latvia - does not limit fundamental human rights and is not at variance with Article 89 of the Satversme.

The Constitutional Court holds that issue on employment periods accumulated by foreign citizens and stateless persons outside Latvia till

January 1, 1991 should be solved with the help of international agreements, and by observing the principles of fairness, proportionality, complementarity and other legal principles.

With an international agreement ratified by the Saeima it is possible to favourably settle the issue of calculating and granting pension to a person, who- in compliance with the Pension Law – is not entitled to receive state social insurance pensions.

Well-grounded is the viewpoint of the Saeima that the State of Latvia shall not undertake the obligations of other state in granting old age pension for the stint abroad. The State of Latvia may not assign the taxpayers, participating in the new pension scheme, to solve issues, which should be solved by interstate agreements. Thus, it lies in the competence of concluding international agreements with particular states and not the competence of a State law.

Up to now Latvia has concluded bilateral agreements on social security with Lithuania, Estonia, Ukraine and Finland. Thus the states reach an agreement on social security of the inhabitants of the contracting parties and specify rights and obligations of the parties. The above practice exists in most European states, i.e., different security systems of two states are adjusted to social protection of the inhabitants of the particular state. The security model of every state is adjusted to the interests of its citizens. Therefore an international agreement is one of the means of protecting social security of all the inhabitants of the state. Agreements like those above are elaborated also with other states.

Latvia has shown its will of solving issues of social security by international agreements, approved acceding to the December 11, 1953 European Transitional Agreement on Schemes of Social Security, Referring to Old Age, Disability and Loss of the Supporter (henceforth- The Transitional Agreement) and acceded to it. The principles of the agreement as well as equal attitude to citizens of any contracting party in the sector of old age pensions are fixed in the preamble. It is envisaged that citizens of the other contracting party shall receive advantages with regard to old age pensions determined in any two or more concluded agreements. The objective of the agreement is also stated: to implement the above principles with the help of the Transitional Agreement to the time of concluding a general convention, based on the network of bilateral agreements. Article 1 of the Transitional Agreement envisages that the party makes a decision on the meaning of the term “citizens of the contracting parties” itself. Thus the Agreement allows every contracting party to make a decision on the issue. Article 3 of the Law “On European Transitional Agreements on Schemes of Social Security Referring to Old Age, Disability and Loss of the Supporter” determines that the notion “the citizen” in the wording of the Agreement

includes the citizens of Latvia and the non-citizens, who are the subjects of the Law "On the Status of those of Former USSR Citizens Who are not Citizens of Latvia or Any Other Country" (henceforth- The Law on Non-Citizens). Article 6 in its turn establishes that in the Republic of Latvia the Transitional Agreement and its Protocol does not apply to Paragraph 1 of the Transitional Provisions of the Pension Law – to including the employment period accumulated till 1991 and periods regarded as equal to employment periods in Latvia in the length of insurance. The second part of Article 9 of the Transitional Agreement envisages the above reference.

5. The applicant requests to evaluate also Paragraph 1 of the Transitional Provisions of the Pension Law (on foreign citizens and stateless persons) in connection with the right of non-citizens to calculation of length of insurance.

Non-citizens are the group of people with a specific legal status, which is determined by the Law "The Law on Non-Citizens". In the Latvian laws the groups of the residents (the citizens, non-citizens foreign citizens and stateless persons) are strictly differentiated. For example, Article 5 of the Law "On Social Aid" establishes that Latvian citizens, non-citizens, foreign citizens and stateless persons are entitled to social aid. Article 15 of the Law "On Registry Acts" especially establishes what documents foreign citizens and stateless persons need when marrying.

Although one group of residents may be equalled to another one by a special reference in the law, the term "non-citizens" has not been mentioned in Paragraph 1 of the Transitional Provisions of the Pension Law. There is neither the reference stating that – under the above Law - the notion "a stateless person" includes also non-citizens. Thus it may be considered that the legislator has not regulated the issue on including the employment period accumulated by non-citizens up to 1991 and periods regarded as equal to them in the length of insurance.

In conformity with Article 1 of the Constitutional Court Law the Constitutional Court reviews cases concerning the compliance of laws and other legal norms with the Satversme (Constitution). It means that the Constitutional Court may evaluate only those legal norms, which are formulated in normative acts and cannot evaluate the compliance of a non-existing norm with the legal norm of higher force. However it should be taken into consideration that non-citizens comprise part of the inhabitants of Latvia and the above issue concerns social rights important for them. It is in the sphere of authority of the legislator to regulate (in compliance with the Satversme and international legal acts in the sector of human rights binding on Latvia) the issue of including the employment periods abroad, accumulated by non-citizens as particular legal subjects,

and periods regarded as equal to them up to January 1, 1991 in the length of insurance.

On the basis of Articles 30-32 of the Constitutional Court Law

the Constitutional Court

DECIDED:

to declare Paragraph 1 (in the part on length of insurance of foreign citizens and stateless persons whose permanent place of residence till January 1, 1991 has been the Republic of Latvia) of Transitional Provisions of the Law "On State Pensions" **as being in compliance** with Articles 89, 91 and 109 of the Satversme (Constitution) as well as with Article 14 of the November 4, 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 1 of the First Protocol of the Convention.

The Judgment is final and may not be appealed.

The Judgment takes effect from the day of its publishing.

The Chairman of the Court session

A.Endziņš