



A case initiated regarding the fact that decisions by the Prison Administration are not subject to appeal

On 14 July 2016 the 2nd Panel of the Constitutional Court initiated the case “On Compliance of Section 50²¹ (5) of the Sentence Execution Code of Latvia with the First Sentence of Article 92 of the Satversme of the Republic of Latvia”.

The Contested Norm

Section 50²¹ of the Sentence Execution Code of Latvia establishes the procedure for appealing against decisions by the evaluation committee. The contested norm provides: “A decision by the Prison Administration shall not be subject to appeal.”

The Norm of Higher Legal Force

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 an application submitted by the Department of Administrative Cases of the Supreme Court, linked to the restriction established in the contested norm to appeal against decisions by the Prison Administration.

In the particular case the Evaluation Committee of Jelgava Prison adopted a decision on changing a prison inmate’s regime for serving the sentence. The decision was appealed against to the Prison Administration (hereinafter also – the Administration), which did not revoke the decision. An application regarding the Administration’s decision had been submitted to the Administrative District Court, and an ancillary complaint regarding the Court’s refusal to accept the application has been submitted to the Supreme Court.

The Department of Administrative Cases of the Supreme Court expresses the opinion that in some instances the contested norm places disproportional restrictions upon a person’s right to a fair trial. This right could be denied only in exceptional cases, when

an institution adopts an internal decision that pertains to a person, which is specially subordinated to it, and when an essential violation of human rights cannot be established.

The legislator had held decisions by evaluation committees of penitentiary institutions as being internal decisions – such that do not place essential restrictions upon human rights of prison inmates. However, in this particular case a decision on imposing a stricter regime for serving a sentence had been adopted and, allegedly, this affected a person's right to private life. Thus, the contested norm, which prohibits appealing against such decisions in court, is said to be incompatible with Article 92 of the Satversme.

Legal Proceedings

The Constitutional Court has requested the Saeima to submit to the Constitutional Court a written reply, presenting the facts of the case and legal substantiation, by 14 September 2016.

The term for preparing the case is 14 December 2016. The Court shall decide on the type of procedure and the date for hearing the case after the case has been prepared.

The press release was prepared with the aim to facilitate understanding of the actual facts of the case. 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 home page of the Constitutional Court www.satv.tiesa.gov.lv.

Līna Kovalevska

Assistant to the President of the Constitutional Court

Lina.Kovalevska@satv.tiesa.gov.lv

(+371) 67830748, (+371) 29813216