



The Constitutional Court terminates legal proceedings in case regarding terminating the operation of an administrator's certificate

On 3 May 2017 the Constitutional Court adopted the decision to terminate legal proceedings in case No. 2016-20-01 “On Compliance of Section 17 (3¹) of the Insolvency Law with the First Sentence in Article 106 of the *Satversme* of the Republic of Latvia”.

Contested norm

Section 17 (3¹) of the Insolvency Law: “The decision on terminating the operation of an administrator's certificate shall be taken if during the last two years of operation of the administrator's certificate the Insolvency Administration has recognised violations of regulatory enactments in the activities of the administrator twice.”

Norm of Higher Legal Force

The first sentence in Article 106 of the *Satversme*: “Everyone has the right to freely choose their employment and workplace according to their abilities and qualifications.”

Facts of the Case

The case was initiated with respect to applications by Jana Ruģele, Rudīte Klikuča, Aloizs Stepēns, Ivita Baumanē, and Jeļena Dadukina. The applicants are insolvency administrators, the operation of whose certificates could have been terminated on the basis of the contested norms. The applicants hold that the contested norm places disproportionate restrictions upon their right to retain the employment of their choice.

The Court's Findings and Decisions

On 6 January 2017 the law “Amendments to the Insolvency Law” entered into force, by which, *inter alia*, Section 17 was deleted from the Insolvency Law.

Pursuant to Para 2 of Section 29 (1) of the Constitutional Court Law, legal proceedings in a case may be terminated before a judgement is pronounced by a decision of the Constitutional

Court, if the contested legal form has become invalid. In assessing, whether there were grounds for terminating legal proceedings in the case, the Constitutional Court examined: 1) whether the contested norm had become invalid; and 2) whether no circumstances requiring continuation of legal proceedings were present. [5]

The Constitutional Court found that the provisions of the Insolvency Law that were currently in force did not comprise such grounds for terminating the operation of an administrator's certificate as the one that was included in the contested norm. Legal regulation on terminating the operation of an administrator's certificate and removing an administrator from office has changed substantially. Thus, the contested norm has become invalid. [6]

In examining, whether no circumstances existed requiring continuation of legal proceedings, the Constitutional Court assessed, whether the fact that the contested norm had become invalid was sufficient grounds for considering that the violation of a person's fundamental rights caused by the contested norm had been eliminated. [7]

The Constitutional Court recognised that the contested norm did not violate the applicant's fundamental rights, since the administrative cases regarding terminating the operation of administrator's certificates that had been issued to them had been terminated. I.e., the applicants still have valid administrators' certificates. Thus, there are no circumstances in the case that would require continuation of legal proceedings and the Constitutional Court decided to terminate legal proceedings. [7]

The decision by the Constitutional Court is final and not subject to appeal. The decision [in Latvian] is available on the home page of the Constitutional Court: http://www.satv.tiesa.gov.lv/wp-content/uploads/2016/10/2016-20-01_Lemums_izbeigsana.pdf

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

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