



Another case initiated with regard to the provision stipulating that in civil procedure the Senate's decision to refuse to initiate cassation proceedings may be drawn up in the form of a resolution

On 7 August 2019, the 2nd Panel of the Constitutional Court initiated a second case “On compliance of Section 464(4¹) of the Civil Procedure Law with the first sentence of Article 92 of the Constitution of the Republic of Latvia”.

The contested provision

Section 464(4¹) of the Civil Procedure Law provides that the decision of an executive session of the Supreme Court to initiate cassation proceedings, to refuse to initiate cassation proceedings, to refer the case for examination under the cassation procedures by the Supreme Court in expanded composition, as well as to refuse to accept an ancillary complaint, may be drawn up in the form of a resolution in conformity with Section 229(2) of this Law.

The provision of a higher legal force

The first sentence of Article 92 of the Constitution of the Republic of Latvia (hereinafter – the Constitution): “Everyone has the right to defend their rights and lawful interests in a fair court”.

The facts

The case was initiated on the basis of an application by the limited liability company *Aģentūra FREYJA*. By a decision taken in an executive session pursuant, *inter alia*, to the contested provision, the Senate refused to initiate cassation proceedings based on the applicant's cassation complaint.

The applicant holds that the contested provision is incompatible with the first sentence of Article 92 of the Constitution, as it provides that the Senate may draw up a decision to refuse to initiate cassation proceedings in a form of a resolution, without specifying the reasons for the refusal.

The applicant is of the opinion that the restriction on fundamental rights established in the contested provision has a legitimate aim, which consists in ensuring a faster and more effective examination of disputes. However, this restriction on fundamental rights is said to be disproportionate, as other, more lenient means for reaching the legitimate aim allegedly exist.

The court procedure

The Constitutional Court has found that it is not necessary to request the institution which had issued the contested provision, i.e. the Saeima, to submit a written reply, as Case No 2019-13-01 “On compliance of Section 464(4¹) of the Civil Procedure Law with the first sentence of Article 92 of the Constitution of the Republic of Latvia” was initiated on 18 July 2019, and the Saeima was already requested to present to the Constitutional Court a written reply containing a statement of the facts of the case and the legal reasoning.

The deadline for preparing the case is **7 January 2020**. The Court will 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 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 on the website of the Constitutional Court: www.satv.tiesa.gov.lv.

Ketija Strazda

Assistant to the President of the Constitutional Court
Ketija.Strazda@satv.tiesa.gov.lv
+ 371 67830749, + 371 26200580