



A case initiated with respect to norms that determine the procedure for compensating for non-pecuniary damages caused by unsubstantiated actions by investigatory institutions, the prosecutor's office and a court

On 9 October 2019, the 1st Panel of the Constitutional Court initiated the case “On Compliance of Section 14 (4) and Para 4 of the Transitional Provisions of the Law “On Compensation for Damages Caused in Criminal Proceedings and Record-Keeping of Administrative Violations” with Article 1 and the Third Sentence of Article 92 of the *Satversme* of the Republic of Latvia”.

The Contested Norm

Section 14 (4) of the law On Compensation for Damages Caused in Criminal Proceedings and Record-Keeping of Administrative Violations” (hereinafter – the Compensation Law): “The compensation for non-pecuniary damages shall be set in the amount of 7000 euro. If severe non-pecuniary damages have been caused, the compensation may be set in the amount of 10 000 euro, but if damage to life has been caused or particularly severe damage to health, the maximum amount of compensation may be up to 30 000 euro. The amount of compensation for non-pecuniary damages caused by ungrounded or unlawful restriction of liberty shall be determined in accordance with Article 15 of this Law.”

Para 4 of the Transitional Provisions of the Compensation Law: “The cases regarding a person’s claim for compensation for damages caused by unlawful or ungrounded actions by an investigatory institution, the prosecutor’s office or a court, in which prior this law enters into force, the statement of claim has been accepted and legal

proceedings have been initiated at a court of general jurisdiction, shall be heard by a court of general jurisdiction in the legal proceedings regarding a claim, abiding by the provisions of this Law. The compensation for damages shall be disbursed by the Ministry of Justice from the resources of the state basic budget allocated for this purpose.”

The Legal Norm of Higher Legal Force

Article 1 of the Satversme of the Republic of Latvia (hereinafter – the *Satversme*):
“Latvia is an independent democratic republic.”

The third sentence of Article 92 of the Satversme: “Everyone, where his or her rights are violated without basis, has a right to commensurate compensation.”

The Facts

The case was initiated on the basis of an application submitted by Oskars Viļums. The applicant has turned to the City of Riga Vidzeme District Court, claiming compensation from the Republic of Latvia for moral damages, the claim is substantiated, *inter alia*, on the Civil law and the law “On Compensation for Damages Caused by Unlawful or Unsubstantiated Actions by an Investigatory Institution, the Prosecutor’s Office or a Court”. The applicant’s claim had been partially satisfied by the judgement of the City of Riga Vidzeme District Court, therefore he has submitted an appeals complaint regarding this part of the judgement.

By the judgement of Riga Regional Court, pursuant to Para 4 of the Transitional Provisions of the Compensation Law, Section 14 (4) of the Compensation Law had been applied to the applicant, imposing the restrictions on compensation for non-pecuniary damages set in this norm and partially satisfying his claim. In view of the

above, the applicant holds that his fundamental rights defined in the third sentence of Article 92 of the *Satversme* had been infringed upon and that also the principle of legal expectations, derived from the basic norm of a democratic state governed by the rule of law, which falls within the scope of Article 1 of the *Satversme*, had been violated.

The Legal Proceedings

The Constitutional Court has requested the institution, which issued the contested act, the *Saeima*, to submit a written reply on the facts of the case and the legal reasoning by **9 December 2019**.

The term for preparing the case is 9 March 2020. The Court will decide on the type of procedure and the date for hearing the case after it 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 at the homepage of the Constitutional Court www.satv.tiesa.gov.lv.

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