



A case initiated with respect to a norm that determines the procedure for compensating for damages caused by unsubstantiated actions by investigatory institutions, the prosecutor's office and the court

On 28 May 2020, the 3rd Panel of the Constitutional Court initiated the case “On Compliance of Para 2 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

Para 2 of the Transitional Provisions of the law “On Compensation for Damages Caused in Criminal Proceedings and Record-Keeping of Administrative Violations” (hereafter – the Compensation Law):

“A private person, who, pursuant to this Law, has the right to receive compensation for such damages that have been caused by unsubstantiated actions by an investigatory institution, the prosecutor's office or a court until the date when this Law enters into force and for the compensation of which legal proceedings have not been initiated at a court of general jurisdiction, shall submit the application regarding compensation of damages within six months as of the date when the legal grounds for compensation for damages arose.”

The Norms of Higher Legal Force

Article 1 of the *Satversme* of the Republic of Latvia (hereafter – 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 has been initiated on the basis of an application by a natural person (hereafter – the applicant). The applicant, in accordance with the Compensation Law, submitted an

application to the Ministry of Justice regarding compensation for damages. In deciding on the aforementioned application, the Ministry of Justice refused to examine it in the part regarding compensation for non-pecuniary damages, substantiating it, *inter alia*, by the contested norm. The applicant appealed against the decision by the Ministry of Justice in court; however, the legal proceedings in the respective administrative court concluded with a ruling that was unfavourable to him, based, *inter alia*, on the contested norm.

The applicant notes that the legal regulation, which was in force before the Compensation Law entered into force, envisaged a person's right to demand compensation for non-pecuniary damages in civil law procedure within ten years as of the moment when the legal grounds for demanding this compensation arose. The contested norm, allegedly, shortens this term significantly. Thus, the contested norm, insofar it applies to compensation for non-pecuniary damages, restricts a person's right to commensurate compensation, established in the third sentence of Article 92 of the *Satversme*, and violates the principle of legitimate expectations, included in Article 1 of the *Satversme*.

Legal Proceedings

The Constitutional Court has requested the institution, which issued the contested act, – the *Saeima* of the Republic of Latvia – to provide a reply on the facts of the case and legal reasoning by **28 July 2020**.

The term for preparing the case is 28 October 2020. The Court shall decide upon the 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 at the homepage of the Constitutional Court www.satv.tiesa.gov.lv.

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