



The Constitutional Court terminates legal proceedings in the case regarding the compliance of Section 1 (1) of the Civil Procedure Law with the first sentence of Article 92 of the *Satversme*

On 30 December 2020, the Constitutional Court has decided to terminate legal proceedings in case No. 2020-08-01 “On Compliance of Section 1 (1) of the Civil Procedure Law with the First Sentence of Article 92 of the *Satversme* of the Republic of Latvia”.

The Contested Norm

Section 1 (1) of the Civil Procedure Law:

“Every natural or legal person (hereinafter – the person) has the right to protection of their infringed or disputed civil rights or interests protected by law in court.”

The Norm of Higher Legal Force

The first sentence of Article 92 of the *Satversme* of the Republic of Latvia (hereafter – the *Satversme*): “Everyone has the right to defend his or her rights and lawful interests in a fair court.”

The Facts

The case was initiated on the basis of Irina Kovalenko’s application. The Applicant had submitted a statement of claim to a court of general jurisdiction in the procedure set out in the Civil Procedure Law, requesting to recognise the payments, demanded by the manager of the residential building, as well as the penalties, following from them, as being invalid, as well as to suspend the calculation of penalties and statutory interest.

The first instance court terminated legal proceedings in the civil case, which was initiated on the basis of the Applicant's statement of claim, which, substantially, requested declaration or negative declaration of a legal relationship. Having examined the Applicant's complaint, the appellate instance court decided to leave the decision by the first instance court unchanged, whereas the Panel of the Supreme Court's Judges refused to examine the Applicant's ancillary complaint regarding the decision by the appellate instance court.

The first instance court found, *inter alia*, that, pursuant to the contested norm, a person had the right to turn to the court only if their rights were infringed but did not have the right to turn to the court with a claim requesting the declaration or a negative declaration of a legal relationship. The appellate instance court, having examined the Applicant's complaint regarding the decision by the first instance court, left the aforementioned decision in force and upheld the conclusions made by the first instance court regarding the content of the contested norm and, besides, underscored the findings of the Supreme Court's judicature, confirming this conclusion.

The Applicant, substantially, holds that the contested norm is incompatible with the first sentence of Article 92 of the *Satversme* since it denies a person access to the court, which is necessary to protect her lawful interests, i.e., the right to submit to a court a claim regarding the declaration or a negative declaration of a legal relationship, as well as the content thereof.

The Court's Findings and Decision

The Constitutional Court found that, substantially, the *Saeima*, in its written reply, requested the Constitutional Court to terminate legal proceedings in the present case on the basis of Para 6 of Section 29 (1) of the Constitutional Court Law because the contested norm did not deny a person the right to submit to a court a claim of declaration. Hence, the Constitutional Court concluded that, first and foremost, the *Saeima's* request regarding the termination of legal proceedings had to be decided on. [10.]

To decide on the *Saeima's* request regarding the termination of legal proceedings, the Constitutional Court had to examine, first of all, whether, in the present case, such rights of the Applicant that fell within the scope of the first sentence of Article 92 of the *Satversme*

had been infringed upon, and verify afterwards, whether the infringement on these fundamental rights had been caused directly by the contested norm. [11.]

On the scope of the first sentence of Article 92 of the *Satversme*

The Constitutional Court concluded that the first sentence of Article 92 of the *Satversme* did not guarantee a person the right to have any issue important for them to be decided on in a court. However, the State must ensure effective protection to any person, whose rights or lawful interests have been infringed upon. The first sentence of Article 92 of the *Satversme* includes a person's fundamental right to the protection of their rights in a fair trial. In the meaning of the first sentence of Article 92 of the *Satversme*, the concept of "right" denotes a person's subjective right that is derived from legal norms. The first sentence of Article 92 of the *Satversme* comprises also a person's fundamental right to the protection of their lawful interests at a fair trial. [12.1.]

The concept of "lawful interest" cannot be understood as a person's abstract interest to receive an explanation of a matter of law of their interests or to clarify the actual circumstances they are interested in. [12.1.]

A person's lawful interest, the protection of which is demanded by the first sentence of Article 92 of the *Satversme*, is only such interest of a person, which is indissolubly linked to the particular person's subjective rights. I.e., the concept of "lawful interest" should be understood as a person's interest to gain a binding declaration of the existence or a negative declaration of certain legal relationships and the content thereof, if a person's subjective rights or legal obligations directly depend on this declaration. The protection of a person's lawful interest, in turn, may be ensured by a binding declaration of the existence or non-existence of particular legal relationship, as well as the content thereof. [12.1.]

If a person's rights have not been infringed upon yet, then, pursuant to the first sentence of Article 92 of the *Satversme*, a person has the right to protect their lawful interests by submitting a claim to the court, requesting a binding declaration of the existence or a negative declaration of legal relationships that influence a person's legal status, as well as the content thereof. Whereas if a person's rights already have been infringed upon, a person

has the right to protect their rights and lawful interest derived therefrom, by using all legal remedies available to them. [12.1.]

On the infringement of the Applicant's fundamental rights

To establish, whether, in the present case, rights that fell within the scope of Article 92 of the *Satversme* had been infringed upon, the Constitutional Court reviewed the actual and legal facts of the case to determine, whether, in view of the facts in the present case, the Applicant had a lawful interest to turn to a court with a claim requesting a binding declaration regarding the existence of a particular legal relationship or a negative declaration, as well as regarding the content of this relationship. Following that, the Constitutional Court verified, whether, in the particular case, the Applicant had been ensured access to a court for the protection of her lawful interests. [12.2.]

The Constitutional Court found that the manager of the residential building issued several invoices to the Applicant, demanding payment of the debt indicated therein as well as of the penalty following from these debts. The Applicant, in turn, is of the opinion that there are no legal grounds for her to make these payments. [12.2.]

The Constitutional Court concluded that the creditor had the right to submit a statement of claim to a court regarding the recovery of unpaid debt. If the court, hearing the case on the basis of the creditor's application, finds that the claim regarding the payment of debt is valid then the debtor is imposed a legal obligation to pay the requested sum by a court's judgement. However, before turning to the court with the statement of claim, pursuant to the law On Extrajudicial Recovery of Debt, the creditor has the right to extrajudicial recovery of debt, which might have a negative impact on a person for a prolonged period of time and infringe upon other rights of this person. Moreover, pursuant to this law, the provider of debt recovery services has the right to include information about the debtor and the respective debt in its database of debt history, which might have a negative impact on other legal relationships of this person. [12.2.]

Hence, the Constitutional Court found that, in view of these actual and legal facts of the case, the person had a lawful interest to clarify her legal status. Accordingly, in such circumstances, the first sentence of Article 92 of the *Satversme* requires ensuring to a person

access to a court, i.e., the right to turn to a court in order to protect one's lawful interests, submitting a claim to determine the existence or non-existence of particular legal relationship, as well as the content thereof. [12.2.]

The Constitutional Court found that, in the present case, the Applicant had been denied the possibility to protect her lawful interest in court on the basis of, *inter alia*, the contested norm. In the particular actual and legal circumstances, the Applicant has no access to other remedies that she could use to protect her lawful interest. Hence, the Constitutional Court found that, in view of the actual facts of the case, the Applicant's fundamental rights, included in the first sentence of Article 92 of the *Satversme*, had been infringed upon. [12.3.]

On whether the infringement on the Applicant's fundamental rights had been caused directly by the contested norm

The Constitutional Court found: the contested norm provides that, within the framework of civil procedure, the court's protection must be ensured to a person's civil rights that had been infringed upon or disputed, as well as to a person's interests protected by the law or the statutory interests. Hence, the contested norm is a reflection of the first sentence of Article 92 of the *Satversme*, merely specifying the nature of this constitutional norm in civil procedure. [14.]

The Constitutional Court reiterated that the first sentence of Article 92 of the *Satversme* included, *inter alia*, a person's right to access to a court for the protection of one's statutory interests also in the case where the person's interests had not been infringed upon yet. In such a case, a person's right to turn to a court with a claim requesting to establish the existence or non-existence of a particular legal relationship, as well as the content thereof, follows from the first sentence of Article 92 of the *Satversme*. Hence, the Constitutional Court found that that the contested norm, as the reflection of the first sentence of Article 92 of the *Satversme*, should be understood to mean that it envisaged a person's right to submit a claim like this to a court. [14.]

In view of the purpose and true meaning of the contested norm, the Constitutional Court found that, in the present case, the infringement on the Applicant's fundamental rights, included in the first sentence of Article 92 of the *Satversme*, had not been caused by the

contested norm itself but by its interpretation and application in a court of general jurisdiction. [14.]

Consequently, the Constitutional Court found that it was impossible to continue the legal proceedings in the present case and to review the compliance of the contested norm with the first sentence of Article 92 of the *Satversme*. [14.]

The Constitutional Court decided:

to terminate legal proceedings in case No. 2020-08-01 “On Compliance of Section 1 (1) of the Civil Procedure Law with the First Sentence of Article 92 of the *Satversme* of the Republic of Latvia”.

The decision is not subject to appeal.

The text of the decision is available on the Constitutional Court’s homepage:
https://www.satv.tiesa.gov.lv/wp-content/uploads/2020/02/2020_08_01_Lemums_par_tiesvedibas_izbeigsanu.pdf

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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