



Satversmes tiesa

Press Release

Case No. 2022-03-01

25.01.2022.

A case initiated with respect to norms of the Civil Procedure Law that do not provide for the possibility for the courts of general jurisdiction to repeal an arbitration court's judgement

On 25 January 2022, the 2nd Panel of the Constitutional Court initiated the case “On Compliance of Section 534, 534¹, 535, 536 and 537 with the first sentence of Article 92 of the *Satversme* of the Republic of Latvia.”

THE CONTESTED NORMS

- The contested norms are included in Chapter 66 of the Civil Procedure Law on the enforcement of arbitration court awards. Section 534 of the Civil Procedure Law defines the procedure for submission of an application for issue of a writ of execution for enforcement of a judgement of a permanent arbitration court. Section 534¹ of the Civil Procedure Law regulates the sending of such an application to participants in the case. Section 535 of the Civil Procedure Law sets out the procedure for deciding on the application, whereas Section 536 defines the grounds for the refusal to issue a writ of execution for enforcement of a judgement of a permanent arbitration court. Finally, Section 537 defines the legal consequences of refusal to issue a writ of execution.

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 has been initiated on the basis of an application submitted by a limited liability company, registered in the Russian Federation, “VZAIMNIJ KREDIT” (hereafter – the Applicant). An arbitration court, registered in the Republic of Latvia, has delivered a judgement by which a loan and contractual penalty have been recovered from the Applicant in favour of the creditor. The Applicant points out that it had never concluded any transactions with the creditor, as well as had not been informed about the arbitration proceedings and had not participated in them. The Applicant had found out about the respective judgement by the arbitration court from the court information system of the Russian Federation, in which an announcement had been published that the issue of recognising and enforcing the arbitration court’s judgement in the Russian Federation would be examined by St Petersburg Arbitration Court.

The Applicant notes that in cases, provided for in the Civil Procedure Law, the court may refuse issuing a writ of execution for enforcement of a judgement by a permanent arbitration court but not repeal it. An arbitration court’s judgement is said to be in force even if its enforcement is refused in Latvia, and the creditor may request enforcement of the judgement in another state. In the absence of mechanism for repealing an arbitration court’s judgement in a situation where the Applicant even had not waived by an arbitration court agreement the possibility to have the respective case examined by a court of general jurisdiction, the Applicant has been denied the right to access to court, included in the first sentence of Article 92 of the *Satversme*.

LEGAL PROCEEDINGS

The Constitutional Court has requested the *Saeima*, the institution, which issued the contested act, to submit to the Constitutional Court **by 25 March 2022** a written reply, presenting the facts of the case and legal substantiation.

- The term for preparing the case is **27 June 2022**.

The Court will decide on the type of proceedings for hearing the case and the date after the case has been prepared.

- The decision on initiating the case is available here:

https://www.satv.tiesa.gov.lv/wp-content/uploads/2022/01/2022-03-01_lemums_par_ierosinasanu.pdf

The press release was prepared to inform society about the Constitutional Court's work. More detailed information about recent developments, cases initiated and heard by the Constitutional Court is available on the Constitutional Court's webpage www.satv.tiesa.gov.lv. Please follow also information published on the Court's *Twitter* account [@Satv_tiesa](https://twitter.com/Satv_tiesa) and *Youtube* [channel](#).

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