



Satversmes tiesa

Press release

Case No. 2021-38-01

14.04.2022

The norms setting the time-limit for submitting an appeal in particularly complex and voluminous criminal proceedings are compatible with the Satversme

On 14 April 2022, the Constitutional Court adopted a judgement in the case No. 2021-38-01 “On the compliance of Section 529, Paragraph One, Clause 3¹ and Section 550, Paragraph One of the Criminal Procedure Law with the first sentence of Article 92 of the Satversme of the Republic of Latvia”.

THE CONTESTED NORMS

In accordance with Section 529, Paragraph One, Clause 3¹ of the Criminal Procedure Law, the operative part of the judgement shall additionally indicate a court decision on extension of the term for the appeal for 10 days more due to especial complexity and amount of the criminal proceedings.

Section 550, Paragraph One of the Criminal Procedure Law:

“An appeal or protest shall be submitted not later than within 10 days or, if the court has extended the term for appeal, not later than within 20 days after the day when a full court ruling became available.”

NORMS WITH 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 his or her rights and lawful interests in a fair court.”

THE FACTS OF THE CASE

The case was initiated on the basis of a constitutional complaint of Mr Aivars Lembergs (hereinafter referred to as – the Applicant). The Applicant is a defendant in a criminal case. The court of first instance convicted the Applicant, and his defence counsels appealed against the judgement.

The Applicant states that the criminal case in question is very voluminous, and the judgement of the court of first instance is also very voluminous. Whereas, the contested norms allegedly provide for that the time limit for appeal against

a judgement of a court of first instance is ten days, but in particularly complex and voluminous criminal proceedings the court may extend this time limit only up to 20 days.

Such a time limit is allegedly insufficient to prepare a quality appeal and to effectively appeal against a judgement of a court of first instance rendered in particularly complex and voluminous criminal proceedings. Although, in the case in question, the Applicant and his defence counsels submitted appeal within the time limit specified in the judgement of the court of first instance, drafting of the appeal was difficult. It is allegedly not possible to conduct full analysis of the reasoned part of the judgement of a court of first instance and make detailed objections thereto in the appeal within the 20-day period stipulated by the contested norms. Thus, according to the Applicant, in the given case, the contested norms infringed his right to a fair trial contained in the first sentence of Article 92 of the Satversme.

CONCLUSIONS OF THE COURT

On the limits of the present case and a single legal framework

The Constitutional Court concluded that it would assess the contested norms, insofar as they apply to the time limit for submitting an appeal in particularly complex and voluminous criminal proceedings, as a single legal framework [11].

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

The Constitutional Court recognised that the first sentence of Article 92 of the Satversme contains the right of the defendant to draw up and submit an appeal to defend his/her rights in criminal proceedings [12].

On the content of the contested norms

The Constitutional Court concluded that the contested norms set a time limit for the preparation of the defence by drafting and submitting an appeal in particularly complex and voluminous criminal proceedings [13].

On the meaning of the time limit for submitting an appeal in criminal proceedings

The Constitutional Court concluded that the contested norms set a time limit for the preparation of the defence by drafting and submitting an appeal in particularly complex and voluminous criminal proceedings. Procedural time limits also ensure lawful and effective conduct of criminal proceedings, as they are laid down in the interests of the principle of legal certainty and are aimed at the completion of criminal proceedings within a reasonable period of time. Procedural time limits also ensure reliance of individuals that the resolution of a criminal case will not be reviewed at a later date [14.1].

On the necessity to balance the rights of the defendant with the rights of other parties to the criminal proceedings and the interests of the entire society

The Constitutional Court recognised: when setting a time limit for submitting an appeal necessary for the defence, it should be noted, first, that the person who has the right to defence is also interested in the settlement of criminal legal relations within a reasonable term, and, second, the rights of other participants to the criminal proceedings – the victim and the owner of the infringed property, as well as the interests of society. Thus, when hearing particularly complex and voluminous criminal proceedings in the court of appeal, the necessity to complete the criminal proceedings within a reasonable term must be taken into account balancing the defendant's right to defence with the interest of the other parties to the criminal proceedings and of the society in legal stability [14.2].

As to whether the time limit for submitting an appeal in particularly complex and voluminous criminal proceedings, laid down in the contested norms, is sufficient for the exercise of the rights to the defence when drawing up an appeal

The Constitutional Court indicated that the time limit for submitting an appeal laid down in the contested norms in particularly complex and voluminous criminal proceedings should ensure the right of the defendant to appeal against the judgement of the court of first instance within a term sufficient for the exercise of the right to defence.

The Constitutional Court emphasised that the contested norms should be assessed within the common system of the appellate instance regulation in criminal proceedings. When assessing whether the period of time allocated for the preparation of defence was sufficient, the Constitutional Court took into account such circumstances as the procedural stage of the case, whether the person had the opportunity to follow the proceedings and the time to get acquainted with the case materials in advance, whether the defendant himself conducted the defence or had an advocate, as well as other guarantees contained in the Criminal Procedure Law [15, 16].

On the role of the appellate instance in criminal proceedings

The Constitutional Court concluded that, when assessing whether the time limit for submitting an appeal was sufficient, it should be taken into account that the proceedings before the court of appeal involved a judicial examination of both the factual circumstances of the case and legal matters [16.1].

On the possibility of timely preparation for submitting an appeal (participation of the person concerned in the proceedings, the role of summary judgement and the institution of supplements)

The Constitutional Court recognised that participation of the defendant and his defence counsel in the proceedings before the court of first instance allowed the defendant to gain an understanding of both the factual circumstances of the case taken into account by the court and the infringements of legal norms

which, in his opinion, the court has committed, and to prepare for the implementation of his defence before the court of appeal [16.2].

The Constitutional Court concluded that, when assessing the time limit set for the preparation and submission of an appeal, it should be taken into account that the defendant has access to the summary judgement. Although drawing up an appeal is limited before the full judgement is available, once the summary judgement has become available, the defendant has the opportunity both to draw conclusions about the factual circumstances of the case taken into account by the court and to identify any infringements of the legal norms. Being aware of the legal consequences of the judgement, having established the circumstances set out in the descriptive part of the judgement, the defendant has the opportunity to prepare for drawing of an appeal [16.3].

The right to a defence before the court of appeal is also facilitated by the institute of supplements of the appeal laid down in the Criminal Procedure Law. If, for some reason, the defendant was not able to fully develop his appeal, the Criminal Procedure Law provides for the possibility of supplementing the initial line of reasoning [16.4].

On the role of the defence counsel – a sworn advocate – in the preparation of an appeal

The Constitutional Court recognised that in each particular case, when undertaking the defence, a sworn advocate had to take into account that the particular complexity and volume procedural stage of the criminal case and the set time limits might require certain adaptations and changes in the organisation of work. An advocate has means at his/her disposal, through the use of which his/her work may be organised in such a way as to ensure defence of the defendant in particularly complex and voluminous criminal proceedings in timely and effective manner. Neither the fact that the time limit for appeal against a judgement of a court of first instance includes weekends or public holidays, nor the fact that, besides particularly complex and voluminous criminal proceedings, a sworn advocate may have other cases in his or her records, could adversely affect exercise of the rights of defence of the advocate's clients. Therefore, the place and role of a sworn advocate in a democratic state governed by the rule of law, as well as the regulation of the professional activities of a sworn advocate provided for in the Advocacy Law are aimed at effective ensuring of the rights of the person to be defended by the sworn advocate in particularly complex and voluminous criminal proceedings [16.5].

On other guarantees contained in the Criminal Procedure Law for proper exercise of the right of defence in the court of appeal

The Constitutional Court recognised that the Criminal Procedure Law provided for an opportunity for the defendant to eliminate deficiencies in an appeal that did not comply with the requirements of the law. Furthermore, parties to criminal proceedings also have the right, during the proceedings before the appellate court, to raise new legal arguments, for example, on the use of sources of law, to clarify their considerations or to submit new evidence that strengthens

the position of the party to the criminal proceedings within the framework of a particular request. Similarly, the factual circumstances of the case not mentioned in the appeal and their assessment are taken into account by the court of appeal if they cast doubt on the guilt or aggravating circumstances of the person entitled to a defence. The court of appeal must assess the content of the appeal on the merits, not just within the scope of the formal claims made in the part of requests [16.6].

- The Constitutional Court ruled the following:

To recognise Section 529, Paragraph One, Clause 3¹ and Section 550, Paragraph One of the Criminal Procedure Law, insofar as it relates to the time limit for submitting an appeal in particularly complex and voluminous criminal proceedings, as being compatible with the first sentence of Article 92 of the Satversme of the Republic of Latvia.

The judgement is final and not subject to appeal, it enters into force on the day of its publication.

Text of the Judgement is available on the website of the Constitutional Court:

https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/09/2021-38-01_Spriedums.pdf

This press release has been prepared to inform the society on the work of the Constitutional Court. **More detailed information on the latest developments, cases opened and adjudicated by the Constitutional Court is available on the website of the Constitutional Court www.satv.tiesa.gov.lv. We invite you to follow the information also on the Court's *Twitter* account [@Satv_tiesa](https://twitter.com/Satv_tiesa) and the Court's *Youtube* [channel](#).**

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A video on the Constitutional Court.