REPORT ON THE WORK OF THE **CONSTITUTIONAL COURT** OF THE REPUBLIC OF **LATVIA**

2021

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INTRODUCTION

This report provides insight into the work of the Constitutional Court from 9 December 2020 to 31 December 2021. Hereinafter the reporting period will start on 1 January and end on 31 December.[1]

A foreword by Sanita Osipova, the President of the Constitutional Court, introduces the report. After this, the statistical indicators of the work of the Court are provided.

The second part of the Report comprises information on the case-law of the Constitutional Court. First of all, information on the development of case-law in the cases heard during the reporting period, as well as brief descriptions of those cases. The cases examined are divided into the following areas of law: fundamental rights, public law, tax and budget law, international and European Union law, as well as criminal law and criminal procedure. A separate part is devoted to the administrative-territorial reform. Decisions of the Constitutional Court on termination of court proceedings, as well as decisions adopted by the panels of the Constitutional Court on initiating or refusing to initiate a case are also reviewed.

The third part of the report describes the dialogue of the Constitutional Court with society and public institutions, as well as the dialogue of courts in the European judicial landscape and international cooperation. The speeches of the President of the Constitutional Court Sanita Osipova and the President of Latvia (1999-2007) Vaira Vīķe-Freiberga at the formal sitting of the Constitutional Court on 4 February 2021 are also published. Finally, the report comprises a list of publications by the judges and staff of the Constitutional Court, as well as key conclusions from these publications.

1 The cut-off date for the reports for 2018, 2019 and 2020 was 9 December instead of 1 January.

CONTENTS

FOREWORD

The year 2021 has been distinctly unusual and confusing. The effects of the pandemic cast a shadow over everyone's life – the social distancing, inescapable loneliness, a shift from regular socialising face-to-face to communication in the digital environment, and the pause in cultural and sporting life. There was no one to shake your hand, pat you on the back or give you a hug. It seemed that time has come to a halt and we are staring at life through a looking glass. Indeed, not through a window, but through a looking glass, for each and every one of the virtual sessions showed a reflection our own faces on the screen. It created a sense of alienation, as if we were observers of our own lives. At the same time, looking back at what we have achieved, individually and collectively, to go such a long way in just one year seems unfathomable.

Even though we have been working remotely for two years now, the Constitutional Court has continued to ensure a full-fledged court process, not only meeting the procedural deadlines established by law, but, as it were when examining applications of local governments related to the administrative-territorial reform, even keeping significantly ahead of schedule. Moreover, not only has the Court been active in judging, it has also laboured to reinforce the debate in Latvia about a democratic state governed by the rule of law. The Constitutional Court continued its discourse with other constitutional organs and civil society in Latvia, participated in strengthening the European Union as a single judicial area, and took part in global dialogues on the values of democracy and the rule of law, as well as the legal mechanisms for ensuring and protecting thereof. The Constitutional Court used these dialogues to encourage the idea that a sustainable democratic state governed by the rule of law cannot be given or received as a gift; it must be built and nurtured through mutual efforts. This is the labour which our nation must undertake together; and the Constitutional Court does its part both through its rulings and by cooperating with other constitutional organs and civil society in a variety of ways.

So much has been achieved that it is difficult to single out any one judgement or action in retrospect. However, these achievements allow us to highlight certain values which have been unveiled by the work of the Constitutional Court in 2021:

1) We must not forget how fragile democracy is; nor our duty to protect and nurture it day after day.

2) Freedom is the right of every person to self-determination. It is a value which needs to be defined, felt and taken into account in every act of law-making, in every judgment, and in every act of law enforcement.

3) Only equality as equality of rights can pave the way to an inclusive society which warrants the right of every person to self-determination.

A democratic state governed by the rule of law, where every legal provision must be constitutional

The year 2021 also marked the 25th Anniversary of the Constitutional Court. For all these years, the work of the Constitutional Court has served as a mirror to Latvia's democracy, rule of law and sense of justice in society. The Annual Report will be published shortly after the 25th Anniversary of the founding of the Constitutional Court and shortly before the centenary of the Constitution of the Republic of Latvia (hereinafter – the Constitution). These landmark anniversaries encourage us to reflect on the remarkable journey of strengthening the rule of law which the Constitutional Court has undertaken together with the people of Latvia. In these 25 years since the Constitutional Court was established, a catalogue of fundamental rights was added to the Constitution, the Administrative Procedure Law was adopted, administrative courts and the Ombudsman's Office were established, Latvia has joined the European Union, raising the standards of human rights embodied in the judicial system to an even higher level. All this has transpired in less than a quarter of a century, building and strengthening Latvia into a country with high standards of democracy and the rule of law. All of these tasks have been carried out by the Latvian sovereign – the nation. Latvian society as a whole has taken part in these processes both indirectly, by empowering its representatives to carry out tasks of national importance, and directly, through various legal instruments, including constitutional complaints, thus contributing to the decontamination of our legal system of unconstitutional legal provisions. Since the legislator introduced the institution of the constitutional complaint 20 years ago, the majority of cases decided by the Constitutional Court have been initiated on applications of natural and legal persons. Every person who has submitted a constitutional complaint has contributed to building up Latvia as a democratic state governed by the rule of law. Building a country where all democratic processes take place within a framework of law. We have our own country, and it means that each of us has to take responsibility for it and do our part.

Freedom as a personal right to self-determination

Democracy is rooted in the belief that every human being is a national value, and that every person must enjoy human dignity. Latvia has done much to become a democratic state governed by the rule of law, which guarantees the right of persons to freedom. We have created a building out of laws and institutions. But how well are we doing with the substance, namely, the goal of a democratic state governed by the rule of law – to protect the dignity of every human being? How free are we and how free do we wish to be? How many choices are we prepared to leave to others? Do we truly respect the fundamental human right to self-determination by avoiding to regulate the life of society and the individual to the smallest detail purely "because the collective knows best what the individual needs"? As we look at the work of the legislator and particular attempts to politicise the judiciary and the administration of

justice by unjustifiably and harshly criticising cases and individual judges, manipulating the minds of potential voters or failing to implement court rulings on their merits, we are forced to ask ourselves: how free are we, to what extent do we respect the fundamental value of a democratic state – the dignity of every human being embodied in the right to self-determination?

So it is that the slogan of our battle for independence "We want to decide our own destiny", at times seems to carry the meaning of "We, and not the occupying power, will determine the lives of our people by limiting their right to self-determination". In 2021, the Constitutional Court has assessed a significant number of legal provisions which denied certain rights to a certain group of persons, thus restricting their right to self-determination. The case-law of the Constitutional Court in these recent years has been particularly focused on one group of people – punished persons – in certain matters, the legislator had restricted the rights of these persons for life with the force of absolute prohibition.[2] The national freedom we have regained has unfortunately has not naturally led to an understanding in society, and therefore in the country as well, that everyone has the right to freedom.

Constitutional complaints filed to the Constitutional Court serve as an indicator of what people understand by freedom and what they expect from fundamental rights and the State. A significantly higher number of constitutional complaints is consistently filed against the obligations of the State to provide support to the individual than against the interference of the State with individual freedoms: freedom of expression, freedom of conscience, respect for private life, etc. Constitutional complaints are mainly concerned with violations of

2 See the Judgment of the Constitutional Court of 24 November 2017 in Case No 2017-07-01, Judgment of 5 December 2019 in Case No 2019-01-01, Judgment of 17 December 2020 in Case No 2020-18-01, Judgment of 25 March 2021 in Case No 2020-36-01, Judgment of 4 November 2021 in Case No 2021-05-01.

the right to a fair court, as well as the right to material goods: benefits, pensions, property. Of course, we can say that we are a relatively poor society, which makes these material goods particularly important. However, we must place human dignity, which requires, among other things, that we are in control of our own lives, above all material goods.

The right to self-determination is natural to countries with long traditions of democracy and fundamental rights, which are deeply rooted in their social conscience. In our new democracy, however, these values still need to be nurtured and learned. After I spoke in the media about the right of every person to self-determination, the Constitutional Court received a letter in which a lady wanted to know where she could register to obtain the right to self-determination... This highlights the lack of understanding that prevails in our collective consciousness about what the concept of freedom entails, as well as the subsequent right of the individual to self-determination, which, without needless reminder, must be respected by the State. People also need to develop a sense of what it means to not only enjoy freedom, but also to be responsible for the consequences of their decisions. Self-determination means taking responsibility for your own life.

Equality as equality of rights paves the way to an inclusive society

An inclusive society is one in which every person understands and accepts that everyone else has the right to self-determination, including the right to be different, to be accepted, to find their place in the complex structures of society and to be supported by their fellow citizens where necessary. An inclusive society also respects the right of individuals to make mistakes, to make amends and to be forgiven by society, regaining their dignity and full rights.

Continuing the 2020 topic of reducing inequality in society, in 2021, the Constitutional Court also focused its efforts on the legal provisions establishing the minimum amount of old-age pension and found them incompatible with the right to social security in relation to the principles of human dignity and a socially responsible state. However, since Latvia's accession to the EU, equality and equality of rights, along with the right to self-determination can no longer be seen as isolated to Latvia only. To guarantee the equality of every person, it is necessary to ensure equality between Member States. The Constitutional Court is well aware how vital it is to develop a united pan-European legal area in which every citizen of the Union and every nation state is equal, not only in the adoption of decisions, but also in the execution thereof, *inter alia*, in constitutional justice.

Latvia shares a common legal area with the other Member States and their constitutional jurisdictions, as well as the European Court of Justice and the European Court of Human Rights, where each has its own final say. The Constitutional Court has therefore initiated a dialogue by organising, together with the Court of Justice of the European Union, the conference "EUnited in Diversity: Between Common Constitutional Traditions and National Identities" which took place in Riga on 2 and 3 September 2021. This was the first time in the history of the European Union when justices from the constitutional jurisdictions of 23 Member States, as well as the Court of Justice of the European Union met to engage in a discussion about the common legal traditions of the European Union and how to reconcile them with the constitutional traditions and national identities of EU Member States, thereby establishing a single, harmonious pan-European area of justice. This discussion was vital, *inter alia*, for the consolidation of Latvian democracy and the freedom and equality of people, and will continue in the future as well.

Democracy, freedom and equality are values which draw on each other and are mutually reinforcing. The loss of any of them – a democracy under the rule of law or the free and equal citizen in an inclusive society – brings the whole edifice crumbling down, as the meaning of democratic governance is lost. Through its work, the Constitutional Court works tirelessly to protect the values of the Constitution in Latvia's legal system and to enshrine them in the collective consciousness of our civil society.

Prof. Dr. iur. Sanita Osipova
President of the Constitutional Court

1 STATISTICS

In the period from 9 December 2020 to 31 December 2021, the Constitutional Court received 466 applications in total. Of these, 165 were found to be clearly inadmissible or they were answered in accordance with the procedures laid down in the Freedom of Information Law. In the same period, 301 applications regarding the initiation of a case were submitted to the panels of the Constitutional Court and 47 cases were initiated.[3]

The largest number of cases, 23, were initiated on the basis of constitutional complaints from persons. 20 cases were initiated on the basis of applications from courts; another 16 cases were based on applications from courts of general jurisdiction while hearing civil cases; and four – on applications from administrative courts. Two cases were initiated on the basis of applications by local government councils, one case – on the basis of an application by the Ombudsman, and one case – on the basis of an application by no less than twenty members of the Parliament of the Republic of Latvia. Several of the cases initiated in 2021 addressed identical or similar legal issues.[4]

During the reporting period, the Court examined 31 cases. Judgments were delivered in 24 cases, and decisions to terminate proceedings were adopted in 7 cases. The Court has presented its opinions on 1254 pages. Two preliminary rulings were received from the Court of Justice of the European Union – in Cases No 2018-18-01 and No 2020-24-01, in which the Constitutional Court had referred questions to the Court of Justice of the European Union for a preliminary ruling.

The judgments considered the constitutionality of 104 legal provisions (acts).[5] In total, 66 legal provisions (acts) were declared to comply with the Constitution, while 34 legal provisions were found to be non-compliant with the Constitution.[6] The justices of the Constitutional Court have added 17 separate opinions to the judgments.[7]

During the reporting period, cases were most frequently initiated on compliance of legal provisions with the rights to property enshrined in Article 105 of the Constitution – 24 cases, Article 64 of the Constitution – 13 cases, the principle of legal equality and the principle of non-discrimination enshrined in Article 91 of the Constitution – 11 cases, Article 1 of the Constitution – 9 cases, the right to a fair court enshrined in Article 92 of the Constitution – 7 cases, the right to participate in

3 In the 2020 reporting period, 70 cases were initiated and 258 applications regarding the initiation of a case were made to the panels.

4 Cases No 2020-65-0106, No 2021-01-0106, No 2021-02-01, No 2021-04-01, No 2021-08-03, No 2021-13-03, No 2021-14-03, No 2021-15-03, No 2021-16-03, No 2021-17-03, No 2021-19-01, No 2021-20-03, No 2021-21-03, No 2021-26-03, No 2021-28-03, No 2021-29-03, No 2021-30-03, No 2021-35-03, No 2021-37-03 and No 2021-39-01.

5 The programmes and sub-programmes of the law On the State Budget for 2020 assessed in Case No 2020-40-01 are counted as one legal provision (act) for statistical purposes.

6 Court proceedings were terminated in Case No 2020-39-02 regarding the constitutionality of four provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 2011.

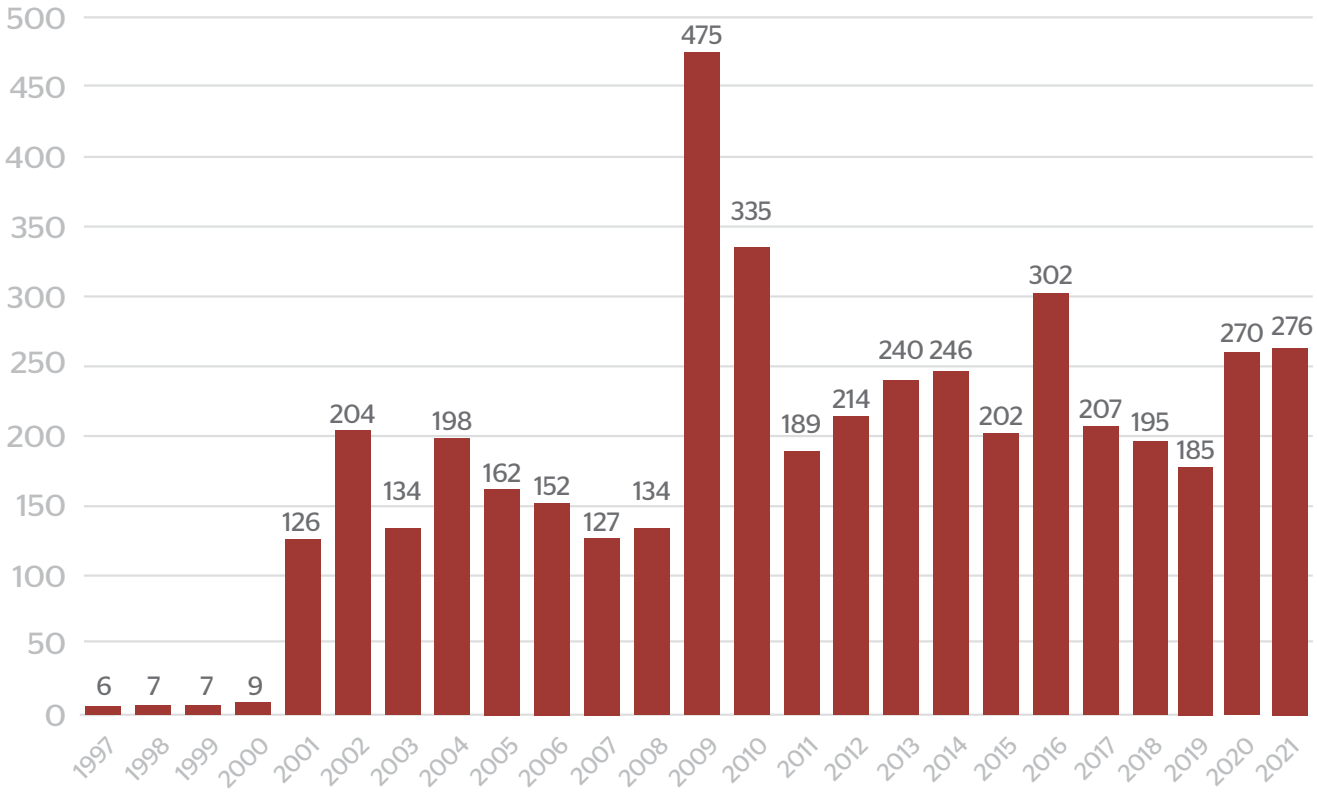
7 Including the separate opinion of Justice Artūrs Kučs of the Constitutional Court in Case No 2019-29-01 signed during the previous reporting period, which was not yet published at that time in accordance with Section 33(1) of the Constitutional Court Law, the separate opinion of Justice Aldis Laviņš of the Constitutional Court in Case No 2020-14-01, the separate opinion of Justice Sanita Osipova in Case No 2019-33-01, the separate opinion of Justice Aldis Laviņš in Case No 2019-33-01, the separate opinion of Justice Jānis Neimanis in Case No 2020-16-01, the separate opinion of Justice Gunārs Kusiņš in Case No 2020-16-01.

the work of the State and of local government enshrined in Article 101 of the Constitution – 6 cases. The court also initiated cases on compliance of a legal provision (act) with Articles 66, 95, 96, 98, 100, 102, 106, 107, 110, 112 and 113 of the Constitution, as well as with the European Charter of Local Self-Government and the Energy Law. Unlike in the previous reporting periods, no cases were initiated on compliance of legal provisions with the fundamental rights laid down in Article 90 or 109 of the Constitution.

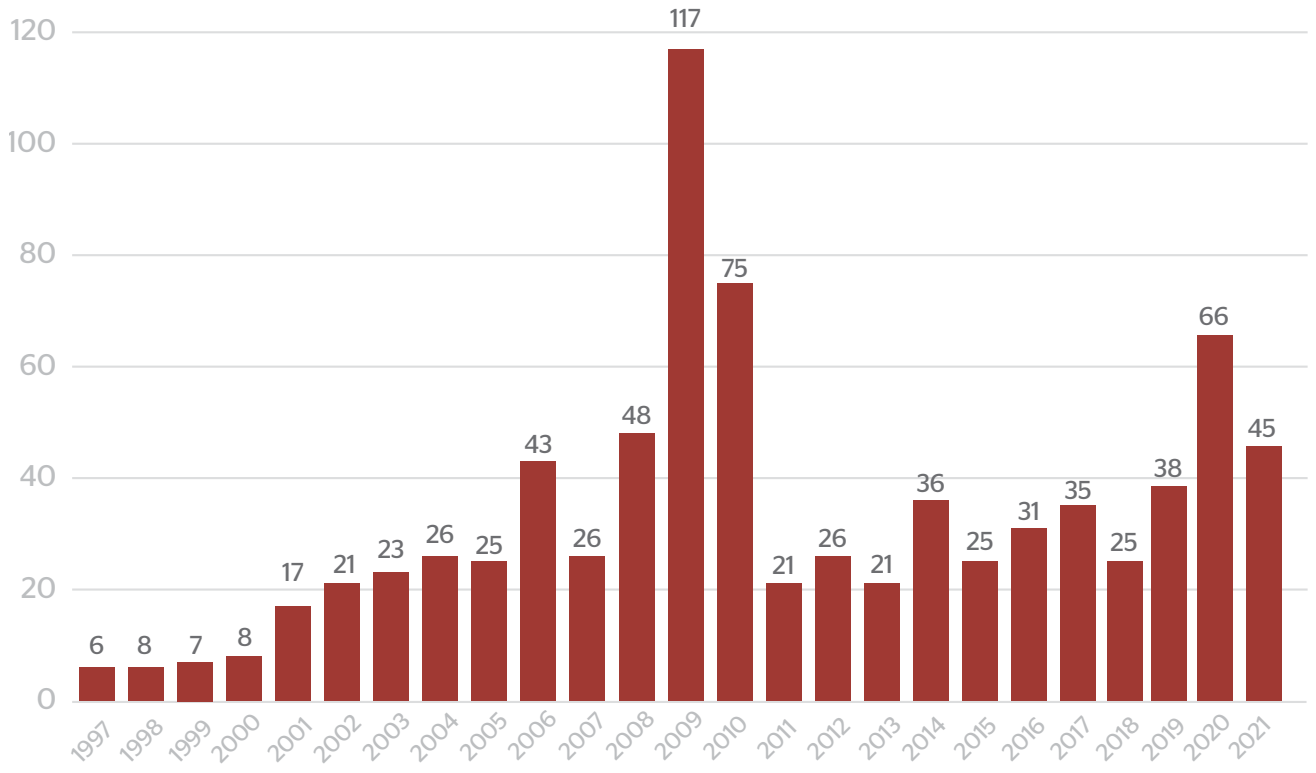
In order to substantiate the non-compliance of the contested provision with a provision of higher legal force, the applicants, as in other years, most often referred to the general principles of law derived from the fundamental norm of a democratic state governed by the rule of law, which fall within the scope of Article 1 of the Constitution, principle of legal equality and the principle of non-discrimination enshrined in Article 91, the right to a fair court enshrined in Article 92, the right to participate in the work of the State and of local government enshrined in Article 101, the right to property enshrined in Article 105, and the right to freedom to choose one's employment and workplace enshrined in Article 106.

The provisions challenged most frequently were those of the Criminal Procedure Law with 38 applications, those of the Civil Procedure Law with 26 applications and those of the Cabinet Regulation No 360 of 9 June 2020 "Epidemiological Safety Measures for the Containment of the Spread of Covid-19 Infection" with 15 applications.

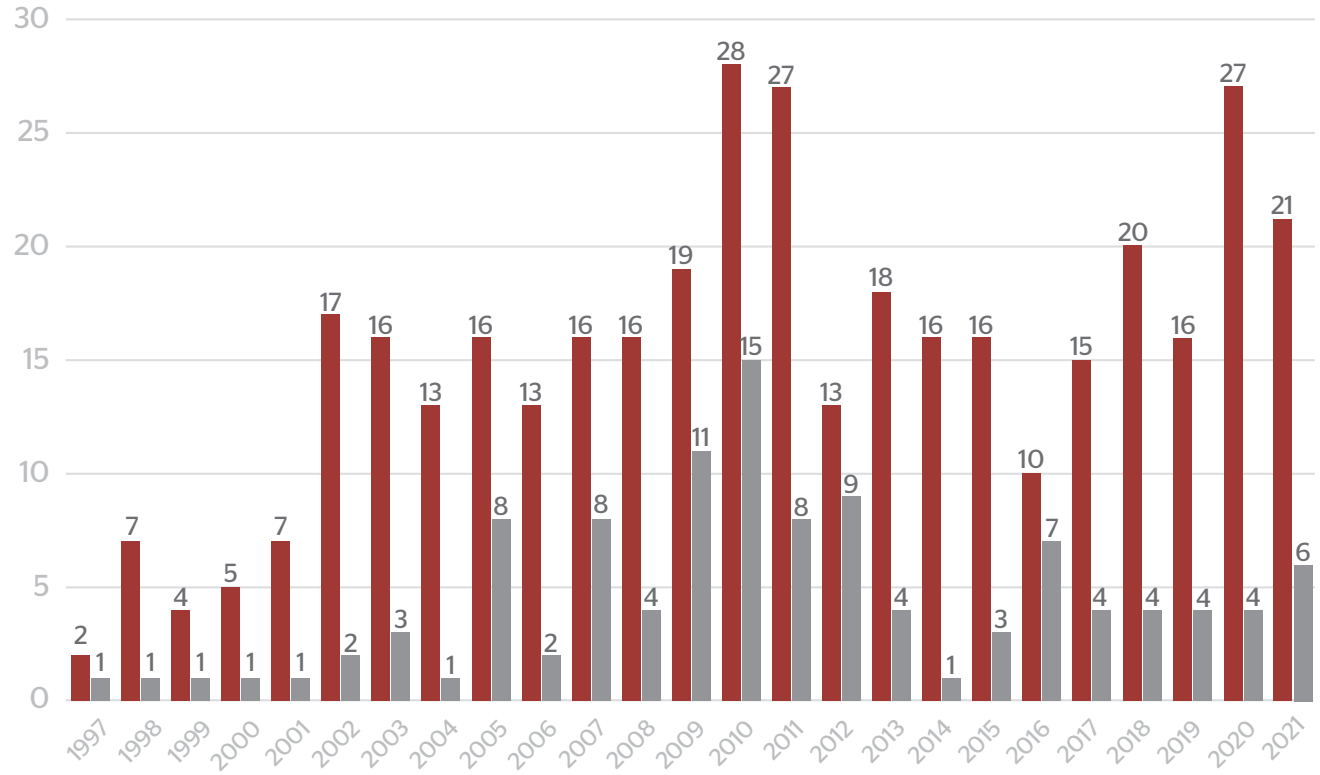
Number of applications received



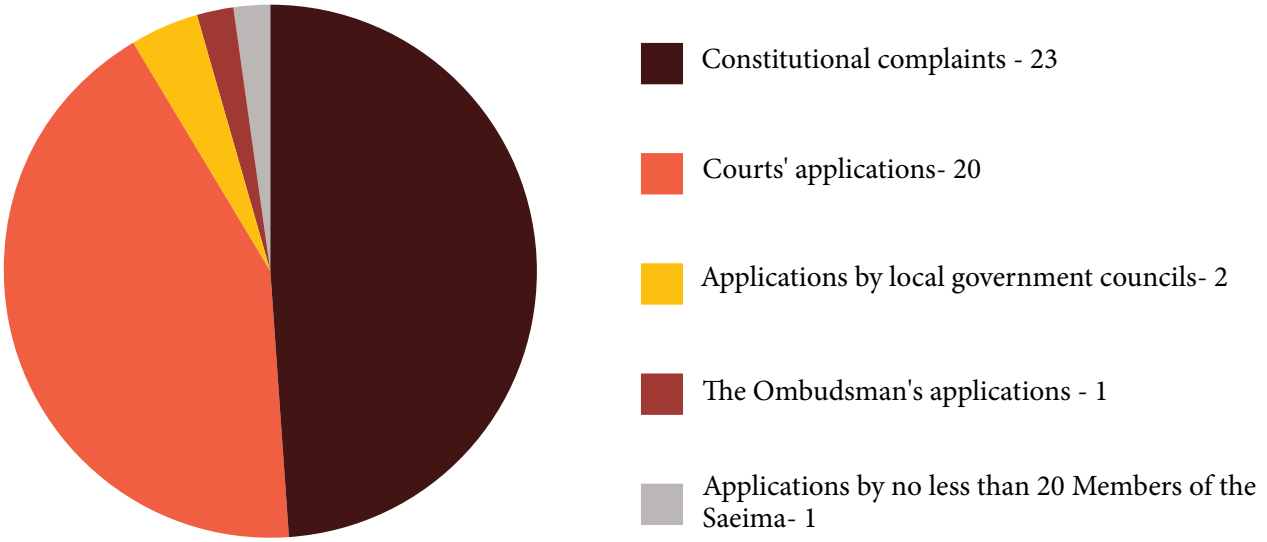
Number of cases initiated



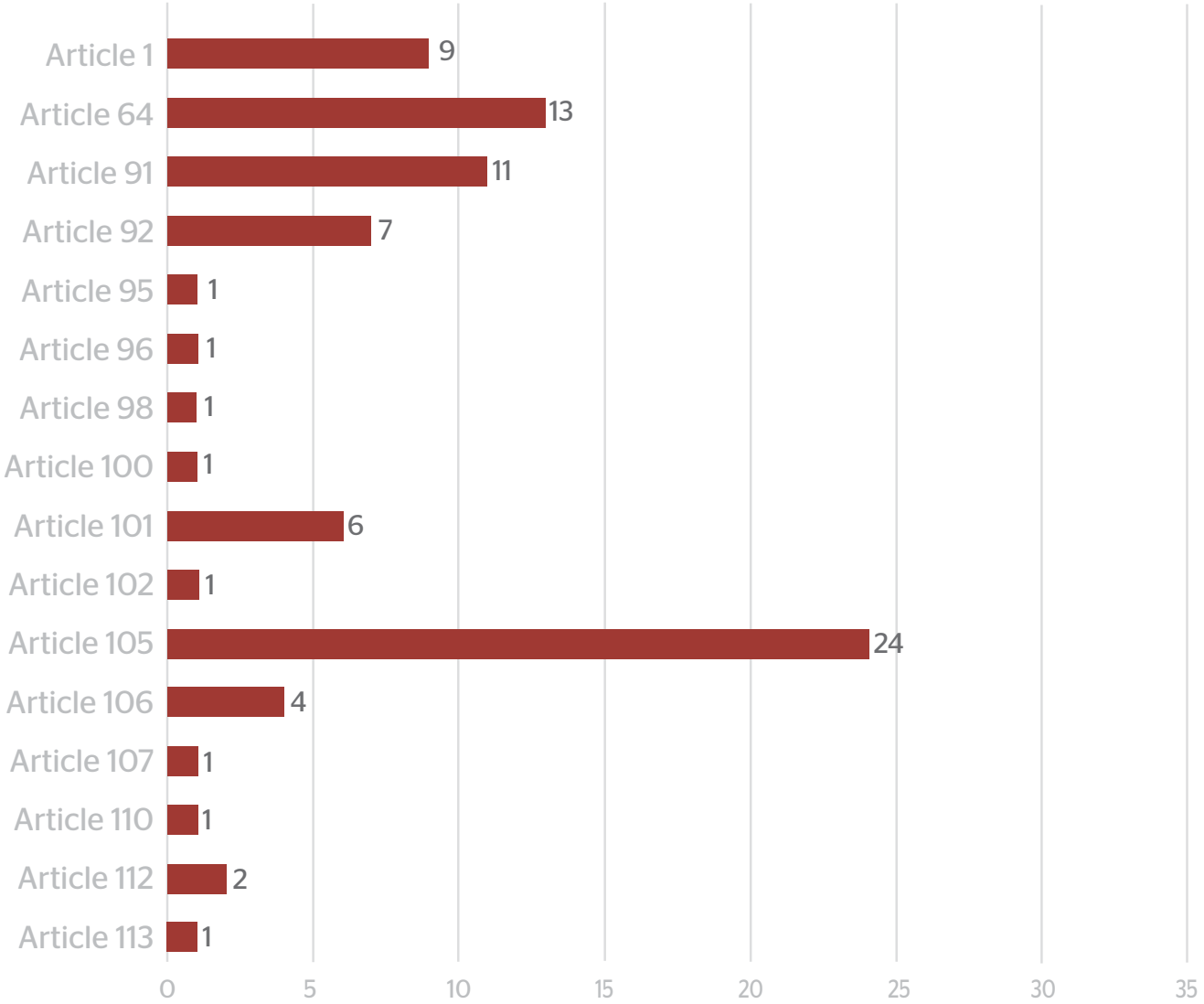
Number of cases examined
(judgments and decisions to terminate court proceedings)



The division of initiated cases according to the applicant[8]



Cases initiated in accordance with Articles of the Constitution[9]



8 For the reporting period 9 December 2020 to 31 December 2021.
9 For the reporting period 9 December 2020 to 31 December 2021.

2 CASE-LAW

2.1. FUNDAMENTAL RIGHTS

Principles of legal equality and non-discrimination
During the reporting period, compliance of the contested provisions with the principles enshrined in Article 91 of the Constitution was assessed in four cases. None of them found a violation of the principle of legal equality or the principle of non-discrimination. In three cases the Constitutional Court concluded that the groups of persons indicated by the applicants were not in comparable circumstances according to certain criteria, and in one case – that there were objective and reasonable grounds for the different treatment.

In Case No 2020-35-01 regarding social insurance against a case of unemployment, the Constitutional Court compared employees who had a case of unemployment occur shortly after returning to work from parental leave, during which they had cared for a child who, in one case, had not reached the age of one and a half years, but in the other case was been between one and a half and eight years of age. The Court held that an employee belonging to the second group of persons was not covered by insurance against a case of unemployment because the person was caring for a child older than one and a half years. This means that such a child has more opportunities to receive childcare services, and more opportunities for their parents to combine work and family life. Therefore the persons identified by the applicant are not in comparable circumstances according to certain criteria.

In Case No 2020-49-01 regarding the creditors of subordinate liabilities, the subordinate liabilities of AS Citadele banka and AS Reverta were compared. The Constitutional Court found that there were significant differences between these. In the first case, the objective of the creditors of the subordinate liabilities in providing the loan was to rescue a credit institution in financial difficulty, while in the second case, it was to make a long-term profit. Therefore they do not constitute comparable groups within the meaning of the first sentence of Article 91 of the Constitution.

In Case No 2020-26-0106 regarding gambling during an emergency situation, the Constitutional Court first of all compared the organisers of on-site gambling on the one hand and the organisers of lotteries and raffles on the other. The Court noted that there are significant differences between these games. The differing elements include the type of game; whether the person who wishes to play has to go to a particular location; whether it is possible to find out about the prize immediately; the size of the investment to be made; the importance of the luck factor; as well as other factors. The games in question are therefore not comparable and, consequently, their organisers are not in comparable circumstances according to certain criteria. Similarly, organisers of gambling, which ensure the operation of gambling halls, and other merchants cannot be recognised as comparable groups within the meaning of Article 91 of the Constitution.

In turn, in Case No 2020-39-02 on the Istanbul Convention[10], the compliance of the contested provision with both the principle of legal equality and the principle of non-discrimination was examined.[11] According to the contested provision, special measures necessary to prevent gender-based violence and to protect women from such violence do not constitute discrimination. The Constitutional Court recognised that the unifying feature of the groups to be compared, i.e. men and women, in the present case was the right to protection from violence. Thus, the contested provision permits differential treatment of groups of persons in the same circumstances on the ground of sex. The Court examined whether this difference in treatment was part of the specific measures aimed at achieving substantive equality between women and men, including by ascertaining: 1) whether there are circumstances in Latvia which allow the implementation of special measures for women which provide for their differential treatment; 2) whether the differential treatment is essentially aimed at eliminating such circumstances. This is the first time the Court used this methodology, although

10 Council of Europe Convention of 11 May 2011 on preventing and combating violence against women and domestic violence.
11 Information on case No 2020-39-02 is included in the "International and European Union law" section of the report.

cases on the implementation of special measures have been examined in the past.[12]

Right to a fair court

The right to a fair court is enshrined in the four sentences of Article 92 of the Constitution. The reporting period is significant in that the Constitutional Court applied almost all of the sentences, i.e. the first, second and third.

The first sentence of Article 92 of the Constitution provides that everyone has the right to defend their rights and lawful interests in a fair court. In Case No 2020-08-01 regarding an action for negative declaration, the Constitutional Court developed the case-law on the concept of "right" used in the aforementioned sentence, as well as interpreted the concept of 'lawful interests' for the first time.[13] The term 'right' refers to the subjective rights of a person which are rooted in legal provisions. The concept 'lawful interest', on the other hand, means a personal interest that is inextricably linked to the subjective rights of the person concerned – it is an interest in obtaining binding confirmation of the existence or non-existence of certain legal relations, as well as of the content thereof, where the subjective rights or legal obligations of that person depend directly on such confirmation. The protection of a person's lawful interests can be ensured by binding confirmation of the existence or non-existence of certain legal relationships, as well as of the content thereof. The Court also recognised that in a case where the rights of a person had not yet been infringed, in accordance with the first sentence of Article 92 of the Constitution, a person had the right to defend their lawful interests by applying to court with a claim to provide binding confirmation of the existence or non-existence of certain legal relations affecting the legal position of the person, as well as of the content thereof.

In Case No 2021-09-01 on road toll The Constitutional Court examined the requirement arising from the first sentence of Article 92 of the Constitution that the result of the judicial proceedings be fair, i.e. a fair judgment.[14] In order for the court, when exercising control over decisions imposing a penalty on persons for an administrative violation, to be able to reach a fair result in the judicial proceedings, it must, *inter alia*, have the appropriate powers to assess the circumstances relevant to the case and to verify the lawfulness and validity of the decision taken by the authority, both from a factual and a legal point of view. If the decision of the authority to impose an administrative penalty does not conform to legal provisions, the court must have the power to remedy the consequences of such a decision for the person concerned. However, such comprehensive judicial control does not in itself include the power of the court to review and, in its discretion, impose a fine of an amount lower than that provided by the legislature for the offence in question, where the legislature, in determining the amount of the fine, has already assessed its appropriateness to the nature of the offence in question and such fine is proportionate in itself.

In Case No 2020-23-01 on negligent storage of firearm ammunition, the Constitutional Court improved the case-law on the principle *nullum crimen, nulla poena sine lege* as provided for in the second sentence of Article 92 of the Constitution.[15] As regards the clarity and predictability of this provision of criminal law, the Court held that the fact that the legislator has subsequently amended the contested provision of the Criminal Law, including by specifying the offence for which criminal liability is to be imposed in the future, does not in itself constitute grounds for finding the contested provision of the Criminal Law to be unclear or unpredictable. In turn, as regards the intertemporal applicability of the criminal law provision, the Court stated: the principle that laws imposing criminal liability have no retroactive effect is limited by the exception that new laws which mitigate previous rules do have retroactive effect. In particular, Article 1 and the second sentence of Article 92 of the Constitution, taken together, contain the principle of retroactive effect of a rule in criminal law which is favourable to a person, which is applicable even in the case where the offence in question has been declared not to entail criminal liability. In accordance with the fundamental objective of the legal system of a democratic state governed by the rule of law, i.e. ensuring justice, a person cannot be subjected to punishment which the State already considers to be excessively severe at the time the provision in question is applied.

In Case No 2020-30-01 on the time limit for claiming compensation for non-material damage, compliance of the contested provision with the principle of legal expectations falling within the scope of Article 1 of the Constitution, in conjunction with the right to commensurate compensation in case of unjustified infringement of rights provided for in the third sentence of Article 92 of the Constitution, was assessed. The Constitutional Court concluded that a situation where a person, who had acquired the right to claim commensurate compensation for non-material damage under a formerly applicable regulation, has that transitional period established arbitrarily, i.e. has the period for exercising that right made dependent on circumstances over which that person has no actual

12 See, for example, Judgment of the Constitutional Court of 7 November 2019 in Case No 2018-25-01.

13 Information on case No 2020-08-01 is included in the "Decisions to terminate court proceedings" section of the report. To find out more about the concepts of 'rights' and 'lawful interests' used in the first sentence of Article 92 of the Constitution, see also: Latvijas Republikas Satversmes 92. pants: tiesības uz taisnīgu tiesu Satversmes tiesas judikatūra [Article 92 of the Constitution of the Republic of Latvia: The Right to a Fair Court. Case-law of the Constitutional Court]. Riga: Tiesu namu aģentūra, 2020, pp. 21-23.

14 Information on Case No 2021-09-01 is included in the "Criminal law and criminal proceedings" section of the report.

15 Information on Case No 2020-23-01 is included in the "Criminal law and criminal proceedings" section of the report.

control, was contrary to the meaning of the transitional regulation and the principle of fairness Depending on the moment when the legal basis for the compensation of damages arose for a person, after the entry into force of the Law on Compensation for Damage Caused in Criminal Proceedings and Administrative Offence Proceedings, the duration of this period may vary from one day, which cannot be considered a reasonable period for a person to plan their actions in accordance with the new legal regime, to almost six months. Thus, persons falling within the scope of the contested provision are not provided with equal opportunities to defend their rights.

Right to life; prohibition of torture and other cruel or degrading treatment; the right to health protection

In Case No 2020-39-02 on the Istanbul Convention, the Constitutional Court revealed in detail the obligation of the State to protect persons against violence.[16] The obligation of the State to protect the life of a person not only from the actions of the State itself, but also from the actions of other persons, follows from the right to life enshrined in Article 93 of the Constitution. Article 95 of the Constitution includes the prohibition of torture and other cruel or degrading treatment, which prohibits, *inter alia*, conduct which may cause the victim a feeling of fear, suffering and inferiority. The obligation of the State to protect the health of people, enshrined in Article 111 of the Constitution, implies, *inter alia*, the obligation to protect a person from interference by other private persons in the exercise of their fundamental rights with regard to both physical and mental health. Thus, the scope of Articles 93, 95 and 111 of the Constitution includes the obligation of the State to protect everyone from violence which may endanger the life or physical and mental health of a person, as well as expose a person to the risk of torture and cruel or degrading treatment. This obligation of the State applies to all persons under the jurisdiction of the State – men and women alike.

The right to inviolability of private life

During the reporting period, the Constitutional Court analysed the scope of the right to inviolability of private life enshrined in Article 96 of the Constitution, as well as specified the content of the right to protection of personal data.

In Case No 2020-21-01 on meetings of convicted persons with other convicted persons, the Constitutional Court held that the scope of the right to inviolability of private life enshrined in Article 96 of the Constitution includes the right of a convicted person to establish and maintain relations with a family member even if they are serving a sentence in another prison. Meetings between a person and other persons, in particular family members, are an essential prerequisite for the exercise of the human right to inviolability of private life, as such meetings allow persons to renew and strengthen their relationships, including family relationships.

Case No 2021-05-01 examined a legal provision that prohibits a person convicted of a violent criminal offence from being a guardian of a child. The Constitutional Court concluded that Article 96 of the Constitution protected the freedom of a person to form relationships with other people, as well as protected the family from unjustified interference. This Article therefore contains a negative obligation on the State in the context of family protection. However, Article 96 of the Constitution does not in itself protect the wish of a person to provide out-of-family care for a particular child. Since the contested provision in the given case did not restrict the right of a person to inviolability of private life, the proceedings in the part concerning compliance of the contested provision with Article 96 of the Constitution were terminated. Consequently, the Court assessed the compliance of the contested provision with the positive obligation of the State to

16 Information on Case No 2020-39-02 is included in the "International and European Union law" section of the report.

ensure family protection enshrined in Article 110 of the Constitution. The Court acted similarly in Case No 2019-01-01, which was heard in the previous reporting period, concerning the right of a person to adopt the child of the other spouse who has been convicted of a violent criminal offence.[17]

Case No 2018-18-01 on the driver demerit points, the Constitutional Court specified the right to the protection of personal data enshrined in Article 96 of the Constitution in conjunction with Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 8 of the Charter of Fundamental Rights of the European Union, as well as other European Union legislation.[18] The Court concluded that, where information on a the demerit points registered for a person is publicly available, there is a significant interference with the right to inviolability of private life and data protection of the person concerned, as this may lead to public disapproval and stigmatisation of the data subject. This information should therefore be given a restricted status.

Right to freedom of thought, conscience and religion
In Case No 2020-39-02 on the Istanbul Convention, the Constitutional Court held that the right of a person to hold on to or their views on social roles, behaviour, activities and characteristics which, in their opinion, correspond to women or men, falls within the scope of Article 99 of the Constitution.[19] At the same time, the Court noted that the State is obliged to take broad and comprehensive measures aimed at reducing public tolerance of violence and explaining the consequences of violence to all persons. In particular, the State has a duty to offer information to a reasonable and educated individual about violence and the factors that lead to it, so as to prevent such violence. This also applies to gender-based violence. The mere fact that such information is offered to individuals does not mean that they are obliged to hold certain beliefs. Such a conclusion follows, *inter alia*, from the fact that the contested regulation does not provide for the use of coercive measures against a person in order to make them change their convictions.

Right to participate in the work of the State and local government
Last year, the Constitutional Court heard one case on the right to participate in the work of the State and local governments enshrined in Article 101 of the Constitution. This was Case No 2020-50-01, in which it was assessed whether the prohibition to hold a position in the service of the State Police by a convicted person complied with the first part of Article 101 of the Constitution in conjunction with the first sentence of Article 106 of the Constitution.

In this case, as in four other cases heard during the reporting period, the contested provision established an absolute prohibition, but unlike in those four cases, the Court did not apply the methodology of assessing the constitutionality of an absolute prohibition.[20] The Court noted that under the first part of Article 101 of the Constitution, the State has a much wider margin of discretion in regulating access to employment in the public service than in regulating other types of employment. This discretion includes, *inter alia*, the right to impose specific requirements on persons entrusted by the State with the exercise of its authority and the performance of specific duties necessary for the exercise of State functions. Given the specific role and status of public service, as well as the wide discretion of the legislator in this area, the assessment of the legality of these specific requirements is not subject to the methodology for assessing the constitutionality of an absolute prohibition, which imposes stricter requirements on the legislator as regards the justification and assessment of the prohibition. However, the Court emphasised that according to the first part of Article 101 of the Constitution, the State, when establishing requirements for persons holding positions in public service, is obliged both to protect the values of a democratic state governed by the rule of law, as well as to ensure the right of persons holding or seeking to hold public service positions to serve.

Right to property
During the reporting period, for the first time ever, the Constitutional Court assessed such restrictions on the right to property enshrined in Article 105 of the Constitution, which were established in order to reduce the spread of Covid-19. It also assessed the restrictions on the rights of creditors of subordinate liabilities arising from the principle of burden sharing for the second time.[21] The social function of immovable property, the proportionality of the tax penalty and the legal expectation of the taxpayer to retain tax reliefs were also analysed. In several cases, the compliance of the contested provisions with the right to property has been reviewed in conjunction with the principle of legal expectations.

In Case No 2020-26-0106, the restriction on the right to property of gambling organisers caused by the legislator prohibiting the organisation of gambling during the

17 See Judgment of the Constitutional Court of 5 December 2019 in Case No 2019-01-01.
18 Information on Case No 2018-18-01 is included in the "International and European Union law" section of the report.
19 Information on Case No 2020-39-02 is included in the "International and European Union law" section of the report.
20 See Judgment of the Constitutional Court of 11 June 2021 in Case No 2020-50-01, as well as the judgment of 17 December 2020 in Case No 2020-18-01, the judgment of 28 January 2021 in Case No 2020-29-01, the judgment of 25 March 2021 in Case No 2020-36-01 and the judgment of 4 November 2021 in Case No 2021-05-01.
21 See Judgment of the Constitutional Court of 13 October 2015 in Case No 2014-36-01 and judgment of 27 May 2021 in Case No 2020-49-01.

emergency situation related to the spread of Covid-19 was reviewed in conjunction with the principle of legal expectations. First of all, the Constitutional Court held that the right of the applicants to carry out a certain type of commercial activity by organising live or interactive gambling on the basis of a licence fell within the scope of Article 105 of the Constitution (namely, the first and third sentences of Article 105). These rights also fall within the scope of Article 1 of Protocol No 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. However, the Court rejected the argument of the applicants that Latvia should have declared, when adopting the contested provisions, that it was exercising its right to derogate from the rights provided for in the Article. The State had decided that the measures taken in relation to this right during the emergency situation should not be subject to a specific standard of restriction of fundamental rights and these measures would fully comply with the principles of the individual assessment or the restriction of fundamental rights test. As regards the restriction of on-site gambling, the Court held that shutting down such places of gathering where persons could easily come into close contact with other persons was one of the necessary safety measures to be taken in order to protect the health of both the visitors to such places and public health as a whole. As regards the restriction of interactive (i.e. internet-based) gambling, the Court noted that, by adopting a provision aimed at protecting persons with gambling problems and their families, the legislator had no reason to restrict the ability of all other people to choose where they wanted to invest their financial resources and how to spend their leisure time, since all citizens did not need such protection. Taking such decisions instead of allowing the citizens to do it for themselves is a disproportionate paternalistic interference with people's right to freedom of choice and self-determination.

In Case No 2020-49-01, the restriction of the right to property of a creditor of subordinate liabilities caused by the prohibition to receive repayment of the principal amount of a term deposit from a commercial company in financial difficulties which has received State aid was assessed in conjunction with the principle of legal expectations. The Constitutional Court recognised that the right to claim the execution of a term deposit contract constitutes "property" within the meaning of Article 105 of the Constitution. Moreover, although the case was initiated regarding compliance of the contested provisions with Article 105 of the Constitution as a whole, the Court separated the first three sentences of this Article from the fourth sentence. The Court rejected the applicant's argument that there had been expropriation of property rights within the meaning of the fourth sentence of Article 105 of the Constitution. The contested provisions provide not for the expropriation of the rights of claim of creditors of subordinate liabilities, but for the limitation of the exercise of those rights for a certain period of time. Whether the creditor of the subordinate liability will in fact be able to exercise this right depends on how the situation develops after the aid is granted, i.e. whether the commercial company has sufficient financial

resources. Expropriation of property rights within the meaning of the fourth sentence of Article 105 of the Constitution, cannot depend solely on the factual circumstances of a particular case. In other words, it is inconceivable that the given property is expropriated by a legal provision and is not expropriated at the same time. In order to establish that property has been or is being forcibly expropriated for public use, it is necessary that the State act to dispossess the property in question. However, the contested provisions do not provide for such action of the State.

Case No 2020-59-01 concerned the obligation of the owner of immovable property to bear the costs of relocating a road engineering structure or a technical means of traffic organisation. The Constitutional Court noted that property, including property belonging to a private person, performs, *inter alia*, a social function. However, the obligations imposed on a person for the public interest must be shared equally between that person and society. The contested provision does not ensure such a balance. In other words, the legislator has applied a single legal framework to all cases, according to which all costs are borne solely by the owner of the immovable property in question. Such a legal framework fails to achieve the main objective of the legal system of a democratic state governed by the rule of law – justice.

Case No 2020-31-01 assessed whether the right to property corresponds to a tax penalty of 100 per cent of the amount of tax payable to the State budget if the economic activity was carried out without registering as a payer of a specific tax or if the declarations and documents necessary for the calculation of tax were not submitted.[22] In the above-mentioned case, the Constitutional Court supplemented its case-law on proportionality and individualisation of a penalty.[23] For example, the Court held that if the circumstances of the infringement in question are sufficiently uniform, the legislator may set the amount of the fine at a level that is fixed for a typical case. The Court also analysed the culture of tax-paying in Latvia, recognising that it was linked to the consequences of the USSR occupation.

In Case No 2021-12-03, the question of whether a legal provision limiting the amount of immovable property tax relief was compatible with the principle of legal expectations in conjunction with the right to property.[24] The Constitutional Court held that after the contested provision entered into force, additional tax liabilities were imposed on persons for the relevant year. Also, as a result of the contested provision, persons had to take into account a higher calculation of immovable property tax for the following year, which consequently reduced the amount of financial resources freely available to persons. Thus, by its very nature, the contested provision has an effect similar to that of a norm which imposes a new tax liability or in some other way increases the financial obligations of a person. Consequently, the contested provision falls within the scope of fundamental rights included in the first sentence of Article 105 of the Constitution. However, as the Court pointed out, the key issue in the case under review regards not the compliance of the maximum amount of the specific immovable property tax relief with the right to property; the question is whether the principle of legal expectations has been respected by establishing the maximum amount of relief and applying it to persons who started to receive

22 Information on Case No 2020-31-01 is included in the "Tax and budget law" section of the report.

23 See the Judgement of the Constitutional Court of 6 April 2021 in Case No 2020-31-01, as well as the judgements of 3 April 2008 in Case No 2007-23-01 and of 15 April 2013 in Case No 2012-18-01.

24 Information on Case No 2021-12-03 is included in the "Tax and budget law" section of the report.

the relief before the contested provision entered into force. Therefore, the Court examined the existence of a breach of the principle of legal expectations in conjunction with the right enshrined in the first sentence of Article 105 of the Constitution. The present case is thus distinguishable from other cases in which legal expectations were examined as one of the elements of proportionality of a restriction on a fundamental right.

Right to freely choose employment

The right to freely choose employment, enshrined in Article 106 of the Constitution, was reviewed in four cases during the reporting period. In these cases, the restriction on the fundamental rights was expressed in the form of an absolute prohibition to work in a certain field. In three cases, the prohibition was imposed on persons convicted of a criminal offence, and in one case on persons with alcohol dependency. Almost all of these cases are permeated by the verdict of the Constitutional Court that a person can change during their course of life.

In Case No 2020-18-01, in which the prohibition imposed on a convicted person to be a member of the board or council of a public-private capital company was reviewed, the Constitutional Court applied the following definition of an absolute prohibition: legal provisions which, without any exceptions, apply to all persons falling within their scope, as well as such restrictions on fundamental rights of a person contained in legal provisions, which, by their nature, do not depend on any individual circumstances, are regarded as absolute prohibitions. The Court also referred to the finding of criminology research that the longer the time a convicted person has spent in society and has not reoffended, the more likely they are to refrain from reoffending. In most cases, a person who has been convicted but has refrained from reoffending for 10 years has reduced the risk of re-offending to that of a person who has never been convicted. The Court also emphasised that the legislator may impose additional restrictions or legal consequences on a person whose criminal record has been extinguished or removed under the Criminal Law only if this is necessary for the protection and safeguarding of essential interests. The very existence of this institution confirms that a person who has committed an intentional criminal offence in the past may change in the course of life.

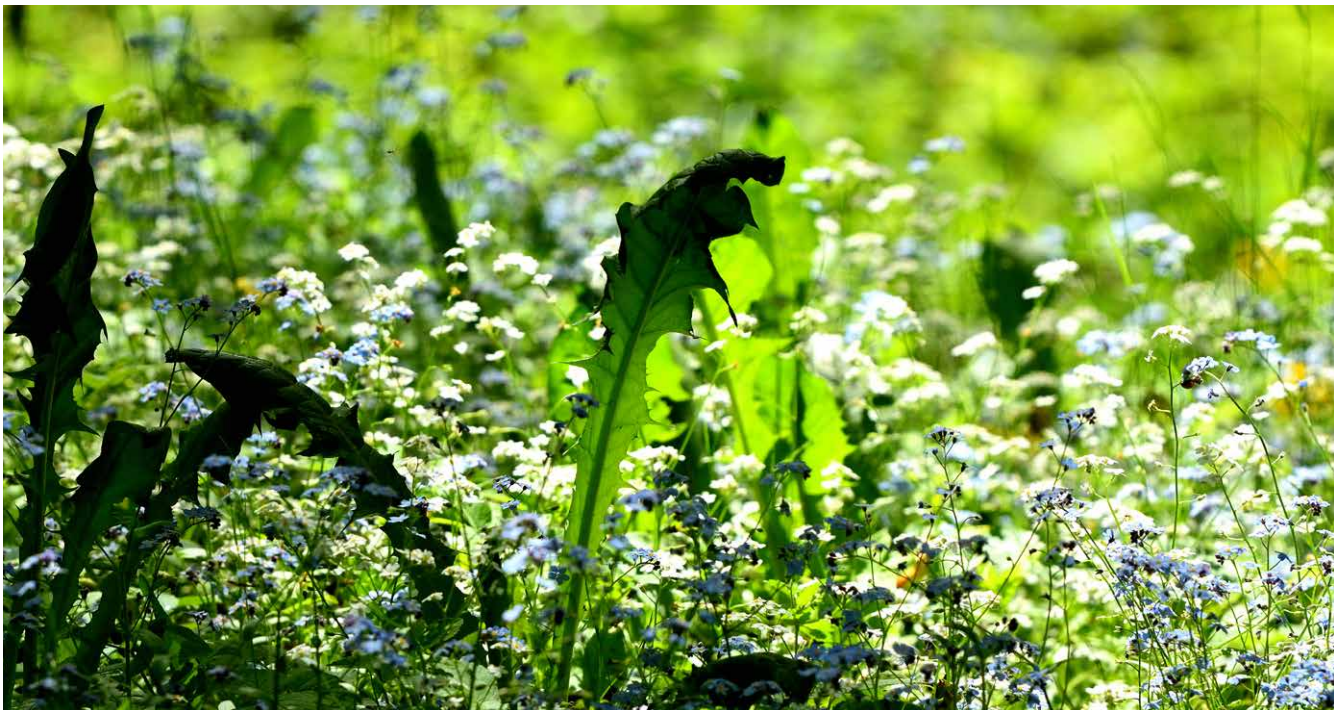
Case No 2020-29-01 concerned the prohibition to issue a security guard certificate to a person with alcohol dependency. The Constitutional Court held that the legislator may impose additional restrictions or legal consequences on a person diagnosed with alcohol dependence if it is necessary for the protection and safeguarding of essential interests. However, a diagnosis of alcohol dependence does not in itself mean that a person cannot change and abstain from alcohol for a long time. The mere fact that a person has been diagnosed with alcohol dependence does not mean that the person is currently in the active phase of the illness, i.e. that they are abusing alcohol and are therefore unable to perform their duties, including working as a security guard, or that they would pose a risk to public safety by performing their duties. People diagnosed with alcohol dependence also include those who are in remission for three years or more and do not pose a risk to public safety.

The prohibition of a person convicted of a violent criminal offence from working in an institution where children are present was reviewed in Case No 2020-36-01. The Constitutional Court held that the principle of prioritising the best interests of the child did not in itself mean that the right of another person to freely choose employment should be restricted whenever the best interests of the child are affected, and regardless of the severity of the restriction in question. The principle of prioritising the best interests of the child and the principle of precaution allow the rights of others to be restricted where there are reasonable grounds for believing that, without such restriction, the best interests of the child would be jeopardised. However, even if the principle of the best interests of the child is respected and the best interests of the child are thus given the highest priority, care must be taken to ensure that this results in the most proportionate restriction of the fundamental rights of others, including the right of a person to choose their employment. The fact that a person has been convicted of a violent crime is not always sufficient to establish that they pose risk to children in the long-term. The prohibition of a restriction on a fundamental right should not be based on general presumptions, but should, as far as possible, promote the achievement of individual justice.

In Case No 2020-50-01, the prohibition of a convicted person to hold a position in the service in the State Police was reviewed. The Constitutional Court held that in cases when the exercise of the right provided for in Article 106 of the Constitution takes place within the framework of public service, the restrictions imposed on that right must be assessed in conjunction with Article 101 of the Constitution. Persons who work in public service have a special legal relationship with the state because their status is closely linked to the exercise of State functions. The State therefore has a much broader discretion in regulating access to public service employment than in regulating other types of employment. This discretion includes, *inter alia*, the right to impose specific requirements on persons entrusted by the State with the exercise of its authority and the performance of specific duties necessary for the exercise of State functions. Therefore, the Court held that the requirement of the legislator that a person who has been convicted of an intentional criminal offence may not perform service in the State Police, is justified.

Right to receive commensurate remuneration for work done

In Case No 2021-07-01, the Court examined whether a legal provision which does not provide



for additional pay for work on public holidays for officials with special service ranks working in institutions of the system of the Ministry of the Interior and the Prison Administration (hereinafter also – service officials) is compatible with the right to receive commensurate remuneration for work done, enshrined in Article 107 of the Constitution. This is one of the few cases which reveal the content of the right enshrined in Article 107 of the Constitution. Meanwhile, the concept of remuneration for work within the meaning of Article 107 of the Constitution can be understood broadly, also with regard for service officials – as remuneration for work, and this remuneration can be composed by different elements. In addition, in this case, the Court described the meaning of public holidays and rest days for the first time. Public holidays maintain and strengthen the shared historical memory, national consciousness and national identity of the Latvian people. Public holidays should therefore be paid holidays, on which employees can rest. Rest time, however, including on public holidays, is an essential part of life for everyone in employment, as an opportunity to commemorate the events underlying public holidays, on the one hand, and serving as time for recreation, on the other. Working on public holidays is acceptable only in particular cases. At the same time, the Court held that Article 107 of the Constitution sets forth an obligation for the legislator to set up a system that would remunerate service officials for their work and provide for commensurate remuneration for working on public holidays. In terms of commensurate remuneration for working on public holidays, it must not only fulfil a function of remunerating for work, but a function of compensating nature as well.

The right to social security

The right to social security as enshrined in Article 109 of the Constitution was examined in two cases last year. Among these, a case on the minimum amount of the old-age pension. The case complements the case-law of the Constitutional Court on the minimum social security, which enables to live a life consistent with human dignity.[25]

In Case No 2020-07-03 on the minimum amount of old-age pension, the Constitutional Court held that the minimum amount of old-age pension had a dual nature. On the one hand, it is linked to the social security system, as a person has to have participated in it for a certain period of time to be eligible for an old-age pension of this amount. On the other hand, the supplement provided by the State to the recipient of the minimum old-age pension to reach this level is not linked to the social security contributions made by the person. It is more like a social security measure granted by the State to a person to provide the social assistance they need. The Court also held that the legislator itself had not regulated the most important issues relating to the minimum old-age pension; the minimum amount of the old-age pension has not been determined on the basis of a method which would result from the objective of protecting human dignity, levelling social inequalities and ensuring the sustainable development of the State; the minimum amount of the old-age pension, in conjunction with other measures of the social security system, do not ensure that every person had the opportunity to live a life which was compatible with human dignity.

Case No 2020-35-01 examined a legal provision that does not provide for State social unemployment insurance for a worker who is on parental leave and

25 See Judgment of the Constitutional Court of 10 December 2020 in Case No 2020-07-03, as well as Judgment of 25 June 2020 in Case No 2019-24-03, Judgment of 9 July 2020 in Case No 2019-27-03, and Judgment of 16 July 2020 in Case No 2019-25-03.

caring for a child older than one and a half years of age. The Constitutional Court held that by the contested provision the State had fulfilled its positive obligation under Article 109 of the Constitution to ensure the right of persons to social security in case of unemployment. Namely, anyone caring for a child under one and a half years of age is covered by State social insurance against unemployment. The contested provision, on the other hand, motivates parents to take parental leave precisely at the time when it is objectively most needed, i.e. during the first years of the life of a child.

The right to protection of the rights of marriage, family, parents and children

During the reporting period, the Constitutional Court examined two cases on fundamental rights enshrined in Article 110 of the Constitution.

In Case No 2020-34-03 regarding the amount of the fee to be paid to the partner of the estate-leaver, the Constitutional Court reiterated the need to protect the families of same-sex partners.[26] The Court emphasised that the first sentence of Article 110 of the Constitution implied two obligations of the legislator – the obligation to ensure legal protection of the family, as well as the obligation to ensure economic and social protection and support of the family. Legal protection of the family means establishing a legal framework for family relations, which includes the right to legally establish family relationships. Under the current legal framework, same-sex families that actually exist are "legally invisible" to the State because they are not given the opportunity to legally establish their family relationships. Thus, the existing system of family protection and support in the State, which, *inter alia*, also includes the contested provision, does not protect the families of same-sex partners legally, economically and socially.

Case No 2021-05-01, on the other hand, concerned the prohibition for a person convicted of a violent criminal offence to be a guardian of a child. The Constitutional Court recognised that Article 110 of the Constitution included the obligation for the State to ensure protection also to a family formed as a result of out-of-family care for a child. Ensuring out-of-family care in the best interests of the child is one of the ways in which the legislator may fulfil its not only obligation under Article 110 of the Constitution to specifically assist children left without parental care, but also protect *de facto* families which have been formed by persons bringing up a child in a manner comparable to child care provided by parents. The Court also pointed out that the decisive circumstance, when establishing whether the State has an obligation under Article 110 of the Constitution to take measures to protect certain families, is whether family relations exist in the particular case.

Right to education

In Case No 2020-39-02 on the Istanbul Convention, the Constitutional Court examined the right of parents to provide their children with education and training that is in conformity with their religious beliefs and philosophical convictions, arising from Article 112 of the Constitution.[27] The Court held that this right does not prevent the State from including information or knowledge on religious or philosophical issues in the curriculum. Parents of the children to be educated also have no right to object to the inclusion of such information in the educational content, as long as the

26 See Judgment of the Constitutional Court of 8 April 2021 in Case No 2020-34-03, as well as the Judgement of 12 November 2020 in Case No 2019-33-01.

27 Information on Case No 2020-39-02 is included in the "International and European Union law" section of the report.

information is included in an objective, critical and pluralistic manner, thus promoting the development of critical thinking.

Case No 2020-07-03
On the case [in English]
Judgment [in Latvian]
Press release [in Latvian]
Press conference [in Latvian]
Separate opinion [in Latvian]

On 10 December 2020, the Constitutional Court delivered a judgement in Case No 2020-07-03 "On compliance of Sub-paragraph 2.2 of Cabinet Regulation No 924 of 5 December 2011 "Regulations on the Minimum Amount of Old-Age Pension", Sub-paragraph 2.1 of Cabinet Regulation No 1605 of 22 December 2009 "Regulations on the Amount of State Social Security Allowance and Funeral Allowance, Procedure for its Review and Procedure for Granting and Payment of Allowances" (in the wording effective until 31 December 2019), as well as Paragraph 2, Sub-paragraph 3.2 of Cabinet Regulation No 579 of 3 December 2019 "Regulations on the Minimum Amount of the State Old-Age Pension" with Article 109 of the Constitution of the Republic of Latvia".

The case concerned the legal provisions determining the minimum amount of old-age pension.

The case was initiated on the basis of applications submitted by the Supreme Court and the Ombudsman. They point out that the minimum amount of the old-age pension, which is below the poverty line, does not provide the basic needs of pensioners – healthy food, clothing, housing and healthcare. Thus, the contested provisions are incompatible with the right to social security in conjunction with the principles of human dignity and a socially responsible State. Moreover, these provisions are also inconsistent with the principles of legal equality and non-discrimination.

First, the Constitutional Court noted that the amount of an old-age pension in general was related to the social insurance contributions made by a person. The amount of the minimum old-age pension, however, is not directly linked to these contributions and is set at the same level for all persons. The minimum amount of an old-age pension is therefore of a dual nature. On the one hand, it is linked to the social security system, as a person has to have participated in it for a certain period of time to be eligible for an old-age pension. On the other hand, the supplement provided by the State to the recipient of the minimum old-age pension in order to reach the minimum amount of the old-age pension is not linked to the social insurance contributions paid by the person. It is more like a social security measure granted by the State to a person to provide the social assistance they need. In particular, for historical reasons, sometimes quite beyond the control of individuals themselves, not all individuals were able to pay social security contributions during their working lives. Various factors have influenced the ability to make these contributions, or to make them at a given level, including the fact that periods of work fell during the occupation, when no individualised contributions were made, the low level of salaries in the 1990s, and the possibility or impossibility of participating in the second and third pillars of the pension system. Thus, the old-age pension is also paid to persons who have not paid contributions to the Latvian social insurance system or have paid them in a small amount.

Second, the Constitutional Court recognised that, taking into account the essential role of the old-age pension in ensuring the well-being of pensioners, the definition of the objective of the minimum amount of the old-age pension and the elaboration of the basic principles of the method for determining that amount were such fundamental issues that they should be decided by the legislator itself. However, the legislator has not regulated these issues. Moreover, it is not clear on what basis has the Cabinet of Ministers determined the minimum amount of the old-age pension. The Court also concluded that the minimum amount of the old-age pension established in the contested provisions, in conjunction with other measures of the social security system, do not ensure that every recipient of the minimum pension can lead a life that is compatible with human dignity. A person receiving a minimum old-age pension must be able to provide themselves with all that is necessary to guarantee basic survival and to ensure their status as a full member of society. The Court added that a person receiving a minimum old-age pension does have access to various measures of the social security system, including State and municipal social assistance benefits, as well as social assistance measures. However, not all of these measures are available to every person, many of them are designed to meet specific needs rather than basic needs in general, and the scope and scale of the measures available varies from local government to local government. Similarly, the State has not performed a national evaluation of social services, and therefore no conclusions can be drawn on whether these services are able to meet the basic needs of their beneficiaries.

Taking into account the above, the Constitutional Court held the contested provisions as non-compliant with Article 1 and Article 109 of the Constitution and, consequently, did not assess their compliance with Article 91 of the Constitution.

Justice Jānis Neimanis of the Constitutional Court added a separate opinion to the judgment. He states that the minimum old-age pension is a State social insurance supplementary support measure and not a social assistance support measure. The minimum old-age pension is paid regardless of a person's financial situation and need for assistance. In contrast, social assistance support measures are individual and targeted to the needs of individuals. The Justice also stressed that the minimum amount of the old-age pension was determined on the basis of a sound, calculation-based method.

In order to recognise that a person is guaranteed at least the minimum level of social security rights, a person receiving a minimum old-age pension must be able to provide themselves with all that is necessary to guarantee basic survival and to ensure their status as a full member of society.

Case No 2020-18-01
On the case [in English]
Judgment [in Latvian]
Press release [in Latvian]
A Justice's video commentary [in Latvian]

On 17 December 2020, the Constitutional Court adopted a judgment in Case No 2020-18-01 "On Compliance of Para 2 of Section 37(4) of the Law on Governance of Capital Shares of a Public Person and Capital Companies with the First Sentence of Article 106 of the Constitution of the Republic of Latvia".

The case examined the regulation which prevents a convicted person from being a candidate for the position of a member of the executive board or supervisory board of a capital company in which the State or a derived public person holds shares.

The case was initiated on the basis of a constitutional complaint. It states that the applicant holds a senior position in a public private company and that he has been found to be the most suitable candidate for the position of member of the executive board of that company. However, after receiving information about the criminal record of the applicant, his promotion to the above-mentioned position was suspended on the basis of Para 2 of Section 37(4) of the Law on Governance of Capital Shares of a Public Person and Capital Companies (hereinafter – Law on Governance of Capital Companies). It includes a prohibition for a person from being a candidate for election as a member of the executive board or supervisory board of a capital company if they have been convicted of an intentional criminal offence, regardless of whether the conviction has been extinguished or removed. The applicant considers that the aforementioned legal provision disproportionately restricts the right to freely choose an employment.

First, the Constitutional Court noted that Para (2) of Section 37(4) of the Law on Governance of Capital Companies regulates the procedure for nominating members of the executive board and the council in the case of governance of shares in the capital of a derived public person, while Para (2) of Section 31(4) provides for a regulation identical in legal consequences with regard to governance of shares in the capital of the State. The Court therefore extended the claim and examined the constitutionality not only of Para 2 of Section 37(4) but also of Para 2 of Section 31(4).

Second, the Constitutional Court recognised that the members of the executive board and the supervisory board had a special role in a capital company, as they ensured the management of that company. They are persons entrusted by the members or shareholders of a company with the management of someone else's property. Thus, the prohibition contained in the contested provisions to be a candidate for the position of a member of the executive board and supervisory board of a capital company if the person has been convicted of an intentional criminal offence reduces possible doubts in society that the members of the executive board and supervisory board might use resources inefficiently or economically unjustifiably.

Third, the Constitutional Court concluded that the prohibition included in the contested provisions to be a candidate for the office of a member of the executive board or supervisory board of a capital company applied to all persons who had been convicted of an intentional criminal offence, irrespective of the extinguishment or removal of the criminal record. It completely prohibits a specific group of persons from being a candidate for this office, and does not allow any exceptions. Moreover, the prohibition is for life, i.e. it remains in force indefinitely, even after the criminal record has been extinguished or removed. Consequently, the prohibition contained in the contested provisions is absolute.

Fourth, the Constitutional Court emphasised that a person who has committed an intentional criminal offence in the past can change over the course of their life. Therefore, the legislator may impose additional restrictions or legal consequences on a person whose criminal record has been extinguished or removed only if this is necessary for the protection and safeguarding of essential interests. The Court did not find that the legislator, by imposing an absolute prohibition to be a candidate for election as a member of the executive board or the supervisory board of a capital company, had, in substance, considered the possibility that the attitude and conduct of a person may change over time. At the same time, the Court noted that the objective of the absolute prohibition contained in the contested provisions could be achieved to an equivalent quality by alternative means, namely by providing for exceptions to this prohibition. However, the legislator has not considered such exceptions.

Taking into account the above, the Constitutional Court concluded that the absolute prohibition included in the contested provisions did not comply with the principle of proportionality and was not established by a law adopted in due order. Hence, the contested provisions do not comply with the first sentence of Article 106 of the Constitution.

A person who has committed an intentional criminal offence in the past can change over the course of their life.

Case No 2020-21-01
On the case [in English]
Judgment [in Latvian]
Press release [in English]
A Justice's video commentary [in Latvian]

On 15 January 2021, the Constitutional Court adopted a judgment in Case No 2020-21-01 "On Compliance of the First Sentence of Section 45(5) of the Sentence Execution Code of Latvia with Article 96 of the Constitution of the Republic of Latvia".

The case concerned a legal provision which prevents a convicted person from meeting a family member who is serving a sentence in another prison and has been granted permission to leave the territory of that prison temporarily.

The case was initiated on the basis of a constitutional complaint. It states that the applicant, while serving his sentence in a prison, requested the warden for permission to meet his mother, who was serving her sentence in another prison and had been granted permission to leave its territory. However, such permission was not granted, since the contested provision prevented convicted persons from meeting persons serving sentences in other prisons. The applicant holds that the contested provision thus unjustifiably restricts his right to inviolability of private life.

First, the Constitutional Court held that the meetings of a person with other persons, in particular family members, are an essential precondition for the exercise of the human right to inviolability of private life, as such meetings allow for the renewal and strengthening of mutual relations. This right also applies to prisoners, including those who wish to meet family members serving sentences in other prisons.

Second, the Constitutional Court noted that the contested provision did not allow any imprisoned convicted person to meet a family member who was serving a sentence in another prison. In the absence of an individual assessment, the nature and gravity of the offences committed by both persons are not considered. Nor is any assessment made of whether the family members committed the offence in question jointly, or of the behaviour of the two persons in prison, the length of the part of the sentence served and other factors which, if assessed individually, would enable the head of the prison to reach a reasonable conclusion as to whether the meeting in question is likely to endanger public safety. Moreover, the legislator has not considered whether every convicted person serving a sentence in a prison is really one who should be completely deprived of the right to inviolability of private life in this respect. The Court did not find that every convicted person who has committed a criminal offence of any gravity, such as reckless offences, should automatically be regarded as such a serious threat to public safety that a prohibition on seeing a family member serving a sentence in another prison would be justified even without any individual assessment.

Third, the Constitutional Court emphasised that the isolation of a person from the outside world may limit their possibilities to integrate into society later on. In contrast, stable family relationships and positive attitudes towards society as a whole can not only contribute to social rehabilitation, but also prevent reoffending. There is no reason to believe that a meeting with a family member serving a sentence in another prison could not also have a positive impact on the convicted person. This could be the case, for example, where one convicted

person has already made significant progress in their social rehabilitation, changed their attitude towards the offence and taken steps towards a law-abiding life. In such a situation, the other convicted person could be positively affected as well.

Taking into account the above, the Constitutional Court concluded that the restriction of fundamental rights included in the contested provision was not proportionate. Thus, the contested provision, in so far as it prohibits, without an individual assessment, a convicted person from meeting with a family member who is serving a sentence in another prison and has been granted permission to leave the territory of the prison temporarily, is incompatible with Article 96 of the Constitution.

A sentenced person has the right to establish and maintain a relationship with a family member even if they are serving a sentence in another prison.

Case No 2020-26-0106
On the case [in English]
Judgment [in English]
Press release [in English]
A Justice's video commentary [in Latvian]

On 11 December 2020, the Constitutional Court adopted a judgment in Case No 2020-26-0106 "On Compliance of Section 8 and 9 of the law On Measures for the Prevention and Suppression of Threat to the State and Its Consequences Due to the Spread of Covid-19 with Article 1, the First Sentence of Article 91 and the First and Third Sentences of Article 105 and Article 9 of the Constitution of the Republic of Latvia and with Article 49 of the Treaty on the Functioning of the European Union".

In this case, the legal provisions prohibiting the organisation of gambling during the emergency situation related to the spread of Covid-19 were assessed.

The case was initiated on the basis of constitutional complaints from gambling operators. The contested provisions prohibit the organisation of gambling and lotteries during the emergency situation, with the exception of interactive gambling, numerical lotteries and instant lotteries, and oblige the Lotteries and Gambling Supervision Inspection to suspend all licences for the organisation of gambling in both the physical and the electronic environment. The contested provisions restrict the applicants' right to property, i.e. the right to carry out commercial activities on the basis of a licence. The applicants hold that this restriction of fundamental rights is not proportionate, and the Parliament of the Republic of Latvia has violated the principle of good law-making, the principle of legal expectations and the principle of legal equality, while Article 9 of the Law is also incompatible with the freedom of establishment enshrined in Article 49 of the Treaty on the Functioning of the European Union.

First, the Constitutional Court found that none of the applicants had their rights under Article 49 of the Treaty on the Functioning of the European Union infringed. The proceedings as regards the alleged incompatibility of Section 9 of the Law with Article 49 of the Treaty on the Functioning of the European Union were therefore dismissed.

Second, the Constitutional Court held that the emergency situation is a special legal regime during which the Cabinet of Ministers may restrict rights and freedoms, as well as impose additional obligations. This authorisation granted to the executive power is based primarily on its ability to act quickly, as well as on the communication of the executive power with experts in the field who are able to assess the risks associated with the emergency situation from a scientific – in this case, epidemiological and infectiological – perspective. In a situation whose urgency does not allow waiting for the Parliament to adopt the relevant decisions within the legislative process, the Cabinet of Ministers, as a numerically smaller and ideologically more unified organ of state power, is authorised to take certain steps which are normally within the competence of the Parliament. This is in line with the principle of separation of powers. At the same time, the Court stressed that such a mandate does not change the status of the Parliament as a directly legitimised legislator. If the Parliament concludes that it is able to address a particular matter related to the emergency situation quickly and effectively enough on its own, it has the right to adopt the necessary legislation on its own, even during a emergency situation.

Third, the Constitutional Court noted that, when adopting norms in an emergency situation, which are related to the cause of the emergency, exceptions to the obligations regarding disseminating information and providing justification established for the Parliament are permissible. Where there is a substantial and serious risk to the health and well-being of individuals, the State has a duty to take reasonable and appropriate measures to protect the fundamental rights of individuals before the adverse consequences arise. In a unique and uncertain situation, the legislator is entitled to take decisions based on a reasonable presumption and aimed at protecting fundamental rights. Therefore, where action is needed as quickly as possible because of the harm which would be caused to the public interest otherwise, the legislator does not need to carry out studies on the risk of such harm or to hold a debate on the prevention of such harm that would significantly delay the adoption of the decision and its effectiveness.

Fourth, when assessing the restriction of on-site gambling, the Constitutional Court recognised that a prerequisite for the functioning of a democratic state governed by the rule of law was the ability of each

individual to self-limit their egoistic freedom and to act responsibly. In a pandemic-related emergency situation, people would be expected to assess the need to visit specific entertainment venues and to socialise. However, when a person is prone to gambling addiction or is already addicted to gambling, they are no longer able to objectively assess their desire to visit a gambling hall and the consequences of this desire. Thus, by denying access to gambling premises, the health of the visitors to the gambling halls, their contacts and, consequently, the public as a whole was protected. Moreover, by discouraging persons from gambling, they were also discouraged from investing their financial resources in the entertainment in question. Taking into account the extent and danger of the spread of Covid-19, as well as the manner of spread of the virus, as established at the time of adoption of the contested provisions, the Court concluded that such restriction on on-line gambling was necessary, proportionate and, therefore, compatible with Article 1 and the first and third sentences of Article 105 of the Constitution.

As regards the restriction on interactive gambling, the Court noted that it was important to take into account the time at which the contested provisions were adopted. Namely, the changes in the daily life of the population, which had both psychological and material effects, linked to the emergency situation may have encouraged individuals to turn to gambling or to gamble at higher levels than before. The legislator may therefore have had a legitimate wish to impose restrictions based on the precautionary principle in order to prevent potential harm to the public or a section of the public. However, the Court stressed that in a democratic state governed by the rule of law, the individual's freedom of self-determination is the ultimate value. This freedom extends to any human choice, as long as it does not undermine the rights of others, the constitutional order, or other interests essential to society. The legislator must respect the freedom of choice of individuals and trust their ability to appraise the consequences of the exercise of such freedom, as long as they affect the individual only. As the Court held, there is no reason to assume in general that investing even minimal sums in a particular type of entertainment would lead to a deterioration in the financial situation of individuals or be detrimental to the public welfare. Nor is there any reason to believe that, for example, a one-off or short-term involvement in gambling could have such a negative impact on a person's health that the State would need to intervene. The Court also stressed that the Parliament had not assessed alternatives to the restriction on interactive gambling at all. Thus, this restriction was found to be disproportionate and, consequently, incompatible with Article 1 and the first and third sentences of Article 105 of the Constitution.

Finally, when assessing compliance of the restriction on on-site gambling with the principle of legal equality, the Constitutional Court concluded that on-site gambling was not comparable to lotteries and instant lotteries and, therefore, its organisers could not be recognised as comparable groups within the meaning of Article 91 of the Constitution. Similarly, organisers of gambling, which ensure the operation of gambling halls, and other merchants cannot be recognised as comparable groups. Consequently, the restriction on on-site gambling is compatible with the first sentence of Article 91 of the Constitution.

In a democratic state governed by the rule of law, the individual's freedom of self-determination is the ultimate value. The legislator must respect the freedom of choice of an individual and trust their ability to appraise the consequences of the exercise of such freedom – perhaps even a potential act of self-harm – as long as it affects only the individual itself.

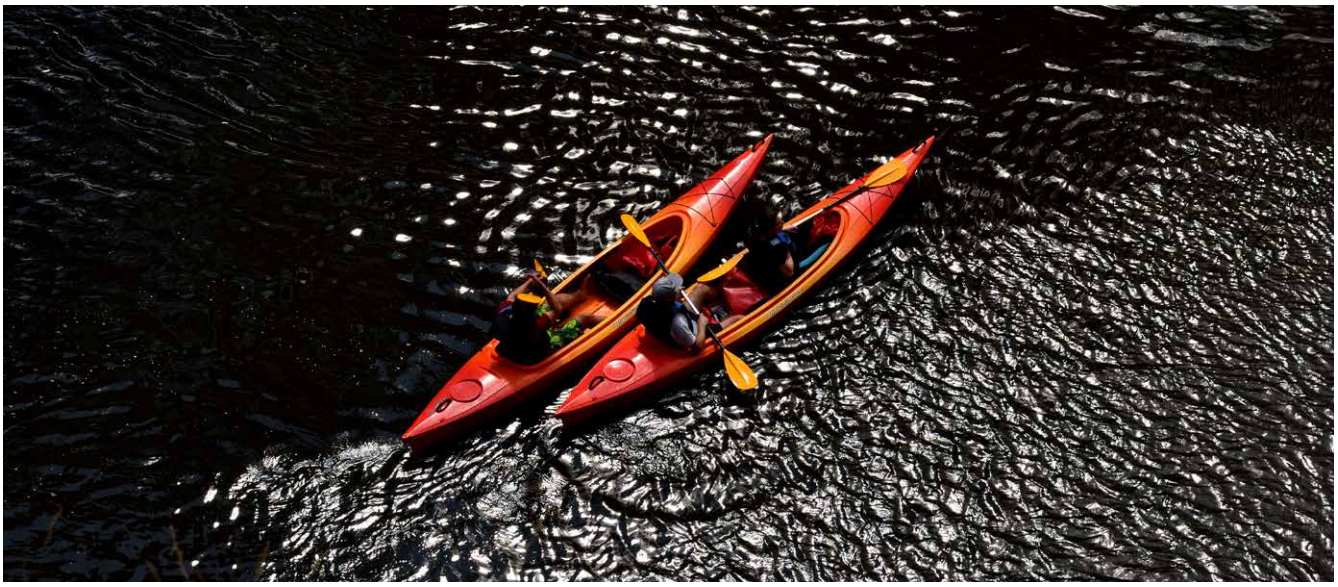
Case No 2020-29-01
On the case [in English]
Judgment [in Latvian]
Press release [in English]
Separate opinion [in Latvian]

On 28 January 2021, the Constitutional Court adopted a judgment in Case No 2020-29-01 "On Compliance of Para 8 of Section 15 of the Security Guard Activities Law with the First Sentence of Article 106 of the Constitution of the Republic of Latvia".

A legal provision that prohibits the issuance of a security guard certificate to alcohol-dependent persons was assessed in this case.

The case was initiated on the basis of an application submitted by the Regional Administrative Court. It indicates that the contested provision establishes an absolute prohibition to issue a security guard certificate to a person diagnosed with alcohol dependence. The contested provision does not allow for an individual assessment of the state of health and applies also to a person who has been found to be in stable remission from alcohol dependence. Thus, the contested provision disproportionately restricts the right to freely choose employment.

First, the Constitutional Court held that the legitimate aim of the restriction of fundamental rights included in the contested provision was the protection of public security. The prohibition on issuing a security guard certificate to a person diagnosed with alcohol dependence prevents the risk to public safety that could arise in the event that a security guard were to perform their job tasks inappropriately and thus not only fail to protect public safety, but even pose a danger to it, for example by unjustifiably using force or a weapon.



Second, the Constitutional Court indicated that the prohibition to issue a security guard certificate included in the contested provision applied to any person who had been diagnosed with alcohol dependence, and thus completely prevented such a person from working as a security guard. This prohibition does not require a case-by-case assessment and therefore does not allow for any exceptions. Moreover, the ban is lifelong – it applies even if the course of the person's illness has changed and the person is no longer abusing alcohol. Consequently, the prohibition contained in the contested provision is absolute.

Third, the Constitutional Court concluded that the diagnosis of 'alcohol dependence' does not in itself mean that a person cannot change and abstain from consuming alcohol for a long period of time. A person who abstains from alcohol for a long period of time and who has no biological or social consequences of alcohol dependence cannot be a danger to others. The legislator has not taken this into account. At the same time, the Court recognised that the legitimate aim of the absolute prohibition contained in the contested provision could be achieved to an equivalent degree by alternative means, namely by providing for exceptions to this prohibition. However, the legislator has not discussed the existence of such alternative means. Hence, the contested provision is incompatible with the principle of proportionality and, therefore, does not comply with the first sentence of Article 106 of the Constitution.

Judges Aldis Laviņš and Jānis Neimanis appended their separate opinions to the judgment. They concluded that the contested provision prohibits a person diagnosed with alcohol dependence from being issued a security guard certificate only if this diagnosis gives grounds to doubt the person's ability to perform the duties of a security guard. Accordingly, the proceedings in the case should have been dismissed. The judges also pointed out the shortcomings of the methodology for assessing the constitutionality of an absolute prohibition, calling instead for the use of the methodology for assessing the constitutionality of a restriction on a fundamental right.

People diagnosed with alcohol dependence also include those who are in remission for three years or more and do not pose a risk to public safety.

Case No 2020-30-01
On the case [in English]
Judgment [in Latvian]
Press release [in English]
A Justice's video commentary [in Latvian]

On 5 March 2021, the Constitutional Court adopted a judgment in Case No 2020-30-01 "On Compliance of Para 2 of the Transitional Provisions of the Law on Compensation for Damage Caused in Criminal Proceedings and Record-Keeping of Administrative Violations with Article 1 and the Third Sentence of Article 92 of the Constitution of the Republic of Latvia".

The case concerned a legal provision establishing a transitional period during which the right to compensation for non-material damage may be exercised by persons to whom this right was provided by the law On Compensation for Damage Caused by Unlawful or Unsubstantiated Actions of an Investigatory Institution, Prosecution Office or Court" (hereinafter – law On Compensation for Damage).

The case was initiated on the basis of a constitutional complaint. It notes that on 18 January 2018, an acquittal judgment in a criminal case entered into force for the applicant, which is the basis for the claim for compensation for non-material damage. According to the law On Compensation for Damage in force at the time, the applicant could have exercised that right to compensation within 10 years. However, on 1 March 2018, the law On Compensation for Damage

Caused in Criminal Proceedings and Record-Keeping of Administrative Violations (hereinafter – law On Compensation) entered into force. According to the contested provision, after the entry into force of the law On Compensation, the applicant had four months and 18 days to exercise his right to claim compensation. The applicant considers that the contested provision is thus incompatible with the principle of legal expectations and the right to compensation.

First, the Constitutional Court held that the legislator does have the right to adopt also such a legal regulation which has immediate effect. Namely, the legal regulation can also be applied to legal relationships were entered into before the entry into force of the legal regulation and continue thereafter. However, when adopting a legal provision, the legislator must always ascertain its impact on existing legal relations. In the present case, the applicant had a legitimate, well-founded and reasonable expectation, based on the provisions of the law On Compensation for Damage, that he would be able to exercise his right to claim compensation for non-material damage within the 10-year limitation period provided for in the Civil Law.

Second, the Constitutional Court noted that one of the methods to ensure the lawfulness of legal provisions adopted with immediate effect in time was to establish a transitional period. In determining a lenient transition to the new legal framework, the legislator must comprehensively and fully consider the situation of all persons falling within the scope of the given legal provision. The legislator must assess the scope of existing rights and provide effective legal protection to individuals, or justify why such protection should not be provided.

Third, the Constitutional Court held that the legislator had not comprehensively and fully ascertained the impact of the contested provision on the legal relations already in place. Depending on the moment when the legal basis for the compensation for non-material damage arose, under the contested provision, the time allowed for a person to exercise this right could vary from one day to almost six months. It is contrary to the spirit of transitional provisions and to the principle of fairness for the transitional period to be set arbitrarily, making the period for exercising the right dependent on circumstances which are beyond the actual control of the person. The Court also stressed that the legislator may not, without specific justification or assessment, worsen the legal position of a person. Hence, the contested provision, insofar as it relates to the right to claim adequate compensation for non-material damage if the legal basis therefor arose not more than six months before the entry into force of the law On Compensation, is incompatible with the principle of legal expectations enshrined in Article 1 of the Constitution and the third sentence of Article 92 of the Constitution.

When adopting a legal provision, the legislator must always ascertain its impact on existing legal relations.

Case No 2020-34-03
On the case [in English]
Judgment [in Latvian]
Press release [in English]
Press conference [in Latvian]
Separate opinion: 1; 2. [in Latvian]

On 8 April 2021, the Constitutional Court adopted a judgment in Case No 2020-34-03 "On Compliance of Para 13 of the Cabinet Regulation of 27 October 2009 No 1250 "Regulation Regarding State Fee for Registering Ownership Rights and Pledge Rights in the Land Register" with Articles 91, 105 and 110 of the Constitution of the Republic of Latvia".

The case concerned the legal provision determining the amount of the State fee to be paid by heirs for the registration of ownership rights in the Land Register.

The case was initiated on the basis of an application submitted by the Ombudsman. It states that the contested provision does not provide protection and support for families established by same-sex partners, since it provides for the same amount of the State fee for

the surviving same-sex partner of the deceased who had established a family with the deceased as for a person who had no family relationship with the deceased. Namely, in the case of a testamentary or contractual inheritance, the surviving same-sex partner of the deceased is liable to pay a State fee 60 times higher than that imposed on the surviving spouse of the deceased. Thus, the contested provision is incompatible with the right to protection and support of family, the right to property, and the principles of legal equality and non-discrimination.

First, the Constitutional Court noted that the contested provision provided for economic support to the surviving spouse, relatives and adopted children of the heir. This takes the form of a reduced amount of State fee compared to the amount of State fee payable by other persons who did not have a family or kinship relationship with the heir. However, the surviving same-sex partner of the deceased, who can inherit only on the basis of a will or a contract of succession, must pay the same amount of State fee as any other person who had no family ties with the deceased. In particular, the measure of family economic support included in the contested provision is not extended to families of same-sex partners.

Second, the Constitutional Court reminded that the legislator had no discretion to choose whether the family, including the family of same-sex partners, should be protected and supported at all, as this is the duty of the legislator, which is directly established by the first sentence of Article 110 of the Constitution. This provision of the Constitution determines, first of all, an obligation for the legislator to ensure legal protection of the family, that is, to establish legal regulation of family relations. The obligation to provide economic and social protection and support for the family is subordinate to this obligation. The legal framework for family relations must ensure that persons can legally establish their family relationships and be recognised by the State as a family. At the same time, it is important to ensure the protection of a family and the members thereof in their personal and property relations. However, the legislator has a wider margin of discretion when it comes to establishing a legal framework for the economic and social protection and support of the family. The legislator is free to choose the nature of the measures to be provided to a family in certain situations, based on objective and reasonable criteria. The Court also stressed that, in accordance with the principle of human dignity, any legal framework for the protection and support of a family must be meaningful. A legal framework which would provide only formal recognition of same-sex partner families, but no protection and support, would essentially be recognising same-sex partner families as an irrelevant form of family and would thus be an insult to human dignity. Moreover, the discretion of the legislator in the fulfilment of the obligations enshrined in the first sentence of Article 110 of the Constitution is limited not only by the principle of human dignity, but also, *inter alia*, by the principle of legal equality and the principle of non-discrimination. In accordance with these general principles of law, the legal framework for same-sex family relations and the legal framework for social and economic protection and support adopted by the legislator must not, without a rational basis, place these families at a disadvantage compared with families of different-sex partners.

Third, the Constitutional Court held that the form and content of the legal framework for family relations was a matter of fundamental importance for the whole society, which required the legislator to make a decision. It is therefore the legislator who is obliged to determine by law a legal regulation for the family relations of same-sex partners. The legislator is entitled to provide the Cabinet of Ministers with a statutory mandate, within the framework of which the Cabinet determines measures for the economic or social protection or support of the family. However, the

Cabinet of Ministers is not entitled to adopt such a regulation in respect of families in respect of the family relations of which the legislator has failed to establish a legal regulation.

Fourth, the Constitutional Court held that under the current legal framework, same-sex families that actually exist are "legally invisible" to the State because they are not given the opportunity to legally establish their family relationships. Same-sex partners are therefore not legally considered family and their legal relationship can only be regulated as persons without family ties. As there is currently no legal framework for same-sex family relationships that would allow for the legal consolidation of same-sex family relations, it is also currently impossible to identify such families in order to ensure their social and economic protection and support. Thus, the existing system of family protection and support in the State, which, *inter alia*, also includes the contested provision, does not protect the families of same-sex partners legally, economically and socially. Consequently, the contested provision, in so far as it applies to the surviving same-sex partner of the deceased who had established a family with the deceased, is incompatible with the first sentence of Article 110 of the Constitution.

Justice Sanita Osipova of the Constitutional Court added her separate opinion to the judgment. These indicate that the infringement of the fundamental rights established in Article 110 of the Constitution is caused by Article 391 of the Civil Code, which establishes the circle of legal heirs. The regulation on lawful inheritance has remained essentially unchanged for more than a century and a half. The circle of persons with whom the deceased person could have cohabited and formed a family with has changed fundamentally since the mid-19thcentury.

Justice Aldis Laviņš of the Constitutional Court also added his separate opinion to the judgment. He indicated that the contested provision was part of the legal framework of economic protection and support of spouses, which the legislator had established in fulfilment of its obligation to ensure special protection of marriage, arising from the first sentence of Article 110 of the Constitution. The State is not obliged to provide the same type and scope of protection (the right to marry and the property and personal rights arising therefrom) to same-sex couples.

If the persons between whom a family relationship has been established are not ensured with the right to legally establish that relationship, it is not possible to provide such families with full legal protection, social and economic protection and support.

Case No 2020-35-01
On the case [in English]
Judgment [in Latvian]
Press release [in English]

On 31 March 2021 the Constitutional Court adopted a judgment in Case No 2020-35-01 "On Compliance of Section 6(5) of the law On State Social Insurance with the First Sentence of Article 91 and Article 109 of the Constitution of the Republic of Latvia".

The case concerned a legal provision which does not provide for State social unemployment insurance for a worker who is on parental leave and is caring for a child older than one and a half years of age.

The case was initiated on the basis of an application submitted by the Supreme Court. It states that a worker is entitled to take parental leave until the child reaches the age of eight. However, during this leave, the worker is only covered by the State social insurance against unemployment if the child has not yet reached the age of one and a half years. Thus, the contested provision allegedly provides for unjustified differential treatment of employees and is therefore incompatible with the principle of legal equality and the right to social security.

First, the Constitutional Court noted that the unemployment benefit was a State social insurance benefit – in order for a person to receive the benefit, State social insurance contributions in case of unemployment had to be made in respect of that person. According to the contested provision, persons who are bringing up a child under the age of one and a half years and receive parental benefit and childcare benefit or childcare benefit only are covered by the State social insurance against unemployment. In examining the conditions for granting and paying those benefits, the Court concluded that a situation where a parent who has taken parental leave before the child reaches the age of one and a half years is not covered by the State social insurance against unemployment was possible. This can happen if both parents take all or part of their parental leave at the same time, but only one parent receives childcare benefit and parental benefit, or if one parent takes parental leave but the other parent receives childcare benefit and parental benefit. Therefore, parental leave is not a decisive condition for a person caring for a child under one-and-a-half years of age to be covered by the State social insurance against unemployment.

Second, the Constitutional Court held that the purpose of the contested provision was to ensure social guarantees to a person who is taking care of a child at an early stage of life, when the child is fully dependent on the continuous presence of at least one parent. Parents receive special support from the State in the early years of a child's life, because infants need special care, usually provided by their parents.

Third, the Constitutional Court emphasised that by the contested provision the State equally provided support

to any person who cared for a child under the age of one and a half years, regardless of the type of benefit granted to the person. This means that anyone caring for a child under the age of one-and-a-half is covered by State social insurance against unemployment. The contested provision, in accordance with its purpose, as well as the right to receive financial resources from the State budget both in the form of social insurance payments and social benefit payments, motivates parents to take parental leave precisely at the time when it is objectively most needed, namely, during the first years of the child's life.

Taking into account the aforementioned, the Constitutional Court concluded that by the contested provision the State had fulfilled its positive obligation under Article 109 of the Constitution to ensure the right of persons to social security in case of unemployment and had complied with the principle of legal equality. Hence, the contested provision complies with the first sentence of Article 91 and Article 109 of the Constitution.

The legislator may lay down conditions, including for unemployment contributions, balancing the public interest and the individual needs of each person in the area of social rights.

Case No 2020-36-01
On the case [in English]
Judgment [in Latvian]
Press release [in English]
A Justice's video commentary [in Latvian]
Separate opinion [in Latvian]

On 25 March 2021, the Constitutional Court adopted a judgment in Case No 2020-36-01 "On Compliance of Para 1 of Section 72(5) of the Law on the Protection of the Children's Rights with the First Sentence of Article 91 and the First Sentence of Article 106 of the Constitution of the Republic of Latvia".

The case concerned a legal provision which prohibits a person convicted of a violent criminal offence from being employed in contact with children for life.

The case was initiated on the basis of an application submitted by the Supreme Court. It states that the employer, on the basis of the contested provision, terminated the employment relationship with an employee who worked as a building supervisor and had been convicted of malicious hooliganism. The restriction on the right to freely choose employment provided for in the contested provision allegedly is not proportionate, since the legitimate aim of that restriction could be achieved by more lenient means, for example, by allowing for a case-by-case assessment. Moreover, the contested provision allegedly is also incompatible with the principle of legal equality, since an individual case-by-case assessment is carried out in respect of groups of persons with a previous criminal record who are in even closer contact with children.

First, the Constitutional Court held that all forms of violence against children, regardless of their nature, are inadmissible and that the State is obliged to take all appropriate measures in order to fully execute the rights of every child. Child abuse can have significant consequences for the future development of a child. It can cause significant damage to the social, emotional and cognitive development of the child, as well as cause health risks. Thus, all forms of violence against children must be prevented in the first place by proactive and preventive measures. The contested provision also provides for such measures. It minimises the likelihood of direct and continuous or regular contact with children by a person whose past behaviour has been directed at endangering another person by using or threatening violence.

Second, the Constitutional Court indicated that in cases where a decision is adopted by weighing various interests involved, including the interests of the child, the best interests of the child have the highest priority. But this does not mean that other interests should not be taken into account. In this case, the best balance must be found between all the interests involved. The right to choose employment is also an important fundamental right, as work is an indispensable source of human dignity and affirmation in a democratic society.

Third, the Constitutional Court emphasised that the legislator was entitled to establish a prohibition for a previously convicted person to be employed in contact with children only if such a person objectively posed a greater risk of danger to a child than a previously unconvicted person. The fact that a person has been convicted of a violent crime is not always sufficient to establish that they pose risk to children in the long-term. The prohibition of a restriction on a fundamental right should not be based on general presumptions, but should, as far as possible, promote the achievement of individual justice. The Court held that the right of a person convicted of a violent criminal offence to be employed in contact with children may be assessed individually by the head of the institution, the employer or the event organiser, if necessary in consultation with the State Inspectorate for Protection of Children's Rights. The State Inspectorate for the Protection of Children's Rights may also be given such additional competence, and such an assessment could also be made by a court of general jurisdiction. Consequently, the legitimate aim of the restriction of fundamental rights can be achieved to the same quality by means which are less restrictive of the rights of persons and which, moreover, do not require a disproportionate contribution from the State and society. Thus, the restriction of fundamental rights contained in the contested provision is not proportionate and the contested provision does not comply with the first sentence of Article 106 of the Constitution.

Justice of the Constitutional Court Aldis Laviņš appended his separate opinion to the judgment. He holds that the legislator not only has the right, but also the duty to limit the right of persons convicted of violent offences to work with children, so that the rights and best interests of children are not jeopardised, even indirectly. It cannot be guaranteed that a person who has committed a violent offence in the past will never reoffend. Such a possibility cannot be excluded by an assessment made by the head of the institution, the employer, the event organiser or the State Inspectorate for Protection of Children's Rights.

The principle of prioritising the best interests of the child and the principle of precaution allow the rights of others to be restricted where there are reasonable grounds for believing that, without such restriction, the best interests of the child would be jeopardised. However, such a restriction must be proportionate.

Case No 2020-49-01
On the case [in English]
Judgment [in English]
Press release [in English]

On 27 May 2021, the Constitutional Court adopted a judgment in Case No 2020-49-01 "On Compliance of Section 8(1) and Section 8.[1](2) and (3) of the Law on Control of Aid for Commercial Activity with Articles 1, 91, 92 and 105 of the Constitution of the Republic of Latvia".

The case concerned the legal provisions restricting the right of a creditor of subordinate liabilities to receive repayment of the principal amount of a term deposit from a commercial company in financial difficulty which has received State aid.

The case was initiated on the basis of constitutional complaints. The complaints indicate that on 12 May 2008 the mother of the applicant entered into an agreement with the joint-stock company Parex banka for the acceptance and servicing of a term deposit, thereby creating subordinate liabilities. On 19 June 2008, the rights arising from that contract were granted to the applicant. The joint-stock company Parex banka entered into financial difficulties at the end of 2008 and received state aid. After reorganisation, the above commercial company was split into joint-stock company Parex banka (later joint-stock company Reverta) and joint-stock company Citadele banka and it continued to receive State aid. The applicant is a creditor of subordinate liabilities of the joint-stock company Reverta, which is precluded by the contested provisions from receiving repayment of the principal amount of the term deposit. This is said to disproportionately restrict his right to property and infringes the principle of legal expectations. The contested provisions also are said to infringe the principle of separation of powers and the right to a fair court, since they were adopted at a time when the applicant had applied to the court for recovery of the principal amount of the term deposit and the proceedings in the civil case had not yet been concluded. Moreover, the contested provisions provide for unjustified differential treatment of the applicant as compared to creditors of subordinate liabilities of the joint stock company Citadele banka.

First, the Constitutional Court terminated the proceedings in the part concerning the constitutionality of Para 3 of Section 8.[1](2) of the Law on Control of Aid for Commercial Activity, as the mentioned legal provision was not applicable to the applicant and could not cause him an infringement of fundamental rights.

The proceedings were also terminated in the part concerning compliance of the contested provisions with the principle of separation of powers and the first sentence of Article 92 of the Constitution. The Court did not find that the contested provisions prevented any of the courts of the three instances from giving a fair court in the civil case. The fact that the legislator has adopted legal provisions relating to legal subjects and their mutual relations, which are the subject of a dispute before a court, does not affect the provision enshrined in the first sentence of Article 92 of the Constitution that the dispute in question will be heard in a fair court. The adoption of each legal provision is based on a set of circumstances to which the legislator has deemed it necessary to respond. The legislator must respond to the formation and development of legal relations in the country.

Second, the Constitutional Court held that creditors of subordinate liabilities may benefit from the successful operation of a commercial company, but at the same time they are exposed to the most significant risk. The State does not guarantee the right of a participant in a high-risk business venture to be protected against business risk. Creditors of subordinate liabilities have to bear the risk that, in the event of solvency difficulties of a company, the funds lent may be extinguished.

Third, the Constitutional Court noted that, in general, the State creates such conditions that merchants may freely carry out commercial activities, including competition among themselves. In exceptional cases, the State may intervene and provide support to a specific market operator. However, in such a case, no person may obtain an undue advantage or a benefit that they would not obtain if, under normal market conditions, the market operator in question were no longer able to participate in the commercial market and compete with other market operators. The contested provisions, in accordance with the principle of fairness, create conditions which are as close as possible to those which would prevail in the absence of the aid. A creditor of subordinate liabilities must take into account that their claim will not be discharged before the aid granted to the company in financial difficulty has been repaid. The Court stressed that aid is granted to restore the solvency of a commercial company and not to provide funds to satisfy the claims of any creditors. Creditors of the subordinate liabilities cannot count on their claims being satisfied because the commercial company has received aid. The purpose of the aid is to protect society and not individuals – creditors of subordinate liabilities.

Fourth, the Constitutional Court assessed whether the creditors of the subordinate liabilities of the joint-stock company Citadele banka and the creditors of the subordinate liabilities of the joint-stock company Reverta, including the applicant, were in comparable circumstances according to certain criteria. The Court concluded that the objective of the creditors of the subordinate liabilities of the joint-stock company Citadele banka was to rescue a credit institution in financial difficulty, while the objective of the creditors of the subordinate liabilities of the joint-stock company Reverta was to make a profit in the long term. Thus, there are significant differences between the above-mentioned creditors of subordinate liabilities and they do not constitute comparable groups within the meaning of the first sentence of Article 91 of the Constitution.

Taking into account the above, the Constitutional Court recognised Section 8(1), Paras 1 and 2 of Section 8.[1](2), as well as Section 8(3) of the Law on Control of Aid for Commercial Activity as compliant with Article 1, the first sentence of Article 91 and the first, second and third sentences of Article 105 of the Constitution.

It is in the public interest to ensure that creditors of subordinate liabilities do not receive satisfaction of their liabilities for as long as the State aid has not been repaid.

Case No 2020-50-01
On the case [in English]
Judgment [in Latvian]
Press release [in Latvian]
Separate opinion: 1; 2; 3 [in Latvian]

On 11 June 2021, the Constitutional Court adopted a judgment in Case No 2020-50-01 "On Compliance of Para 4 of Section 4 of the Law On the Career Course of Service of Officials with Special Service Ranks Working in Institutions of the System of the Ministry of the Interior and the Prisons Administration with Article 101 and Article 106 of the Constitution of the Republic of Latvia".

A legal provision which prohibits persons punished for an intentional criminal offence from serving in the State Police for life.

The case was initiated on the basis of a constitutional complaint. It states that the applicant, on the basis of the contested provision, was dismissed from the service of the State Police because he was found guilty of committing an intentional criminal offence. The contested provision is said to disproportionately restrict the right to freely choose an employment and the right to hold a position in public service, since the legitimate aim of the restriction contained therein could be achieved by more lenient means, including by

providing for a case-by-case assessment. Moreover, the benefit to society is said not to outweigh the harm to the rights and lawful interests of the person.

First, the Constitutional Court held that the restriction of fundamental rights contained in the contested provision was absolute – the prohibition to serve in the State Police applies to any person who has been convicted of an intentional criminal offence, irrespective of extinguishing or expungement of the criminal record; moreover, the prohibition did not provide for a case-by-case assessment, did not allow any exceptions and was established for life. Due to the strictly restrictive nature of an absolute prohibition, the legislator may be subject to stricter requirements regarding the justification and assessment of the prohibition in the process of adopting such legal provisions. However, given the specific role and status of the public service and the wide discretion of the legislator in this area, the methodology for assessing the constitutionality of an absolute prohibition is not applicable in the present case. The Court therefore examined whether the restriction of the fundamental right was established by law, whether it has a legitimate aim and whether it complies with the principle of proportionality.

Second, the Constitutional Court recognised that the State Police protects the constitutional principles on which the order of a democratic state governed by the rule of law is based, thus exercising one of the most important functions of the State. The duty of the State Police is to ensure the rule of law and order in society, to respect and protect the fundamental rights and freedoms of individuals, and to detect, prevent and combat crime. If a person who has been convicted of an intentional criminal offence were to become a State Police officer, public confidence in State Police officers as enforcers of state authority would be undermined. However, a democratic state governed by the rule of law can only function effectively if the public has confidence in the actions of those in public service. In a democratic state governed by the rule of law, citizens must have confidence that those in service of the state will carry out their duties lawfully, in the interests of the state and society. Therefore, the presence of a person in the service of the State Police who has committed an intentional criminal offence, even if their criminal record has been extinguished or expunged, may give the impression that representatives of the public authorities may disregard the provisions of the legislation and act contrary to the values that these officials are obliged to protect. Namely, if a person who has committed an intentional criminal offence were to serve in the State Police, a conflict of values would arise.

Third, the Constitutional Court emphasised that the State had not only the right, but also the duty to establish measures that would promote public confidence in the representatives of State power. Taking into account the special role of the State Police in the protection of human rights and freedoms, as well as ensuring public order, the legislator has set a justified requirement for State Police officers not to have been convicted of an intentional criminal offence, irrespective of extinguishing or expungement of the criminal record. An individual assessment of the persons in the given situation would not achieve the legitimate aim of the restriction of fundamental rights, i.e. protection of the order of the democratic state governed by the rule of law – to the same extent, since its achievement is characterised, *inter alia*, by a general trust of persons and the public in the State Police officials as law-abiding representatives of the state authority.

Fourth, the Constitutional Court concluded that the contested provision strengthened public confidence in State Police officials and in the order of the democratic state governed by the rule of law as a whole. Thus, the benefit to society from the prohibition imposed on a person who has been convicted of an intentional criminal offence from serving in the State Police outweighs the harm caused to the rights of the individual. Hence, the contested provision complies with the first part of Article 101 and the first sentence of Article 106 of the Constitution.

Justice of the Constitutional Court Aldis Laviņš appended his separate opinion to the judgment. He states that the judgment creates legal uncertainty as to the methodology to be used by the legislator and the law enforcer in assessing the constitutionality of such restrictions of fundamental rights which do not provide for exceptions and are set for an indefinite period of time. At the same time, the Justice added that the methodology for assessing the constitutionality of an absolute prohibition should be abandoned altogether in the future. This conclusion is also apparent in the separate opinions of Justice Jānis Neimanis, annexed to the judgment. He emphasises that the Constitutional Court has unnecessarily and erroneously introduced the concept of the so-called "absolute prohibition" and a special procedure for the assessment of the legislative process in this case. In contrast, the separate opinion of Justice Artūrs Kučs held that the court had unjustifiably made an exception to the methodology for assessing the constitutionality of an absolute prohibition. The legislator's discretion in regulating employment in the public service does not justify a lower standard for assessing the constitutionality of an absolute prohibition than in other cases of absolute prohibition. The Justice also concluded that the contested provisions did not comply with the first part of Article 101 and the first sentence of Article 106 of the Constitution.

A democratic state governed by the rule of law can only function effectively if the public has confidence in those who perform public service.

Case No 2020-59-01
On the case [in English]
Judgment [in Latvian]
Press release [in Latvian]
A Justice's video commentary [in Latvian]

On 7 October 2021, the Constitutional Court adopted a judgment in Case No 2020-59-01 "On Compliance of Section 7.[1](3) of the Road Traffic Law with the First, Second and Third Sentences of Article 105 of the Constitution of the Republic of Latvia".

The case concerned a legal provision that imposes an obligation on the owner of immovable property to bear the expenses of relocating a road engineering structure or a technical means of traffic organisation.

The case was initiated on the basis of an application submitted by the Supreme Court. It states that the applicant in the administrative case intended to demolish the garage she owns. Next to the garage there is a road engineering structure owned by SIA "Rīgas satiksme" – a catenary support, which is necessary for ensuring tram traffic. In order to be able to demolish the garage, the applicant must rebuild (relocate) the catenary support, which, according to the contested provision, must be done at the expense of the applicant. According to the Supreme Court, the contested provision thus disproportionately restricts the right to property of the applicant.

First, the Constitutional Court held that the contested provision applies to all cases where a road engineering structure or a technical means of traffic organisation (hereinafter jointly – road or traffic object) located in immovable property could be relocated. Consequently, the Court decided to assess the constitutionality of the contested provision with regard to all the cases mentioned.

Second, the Constitutional Court recognised that according to the contested provision, the obligation to bear the expenses of relocation of a road or a traffic object falls not on the society, but instead on the owner of the immovable property in question. This avoids wasting financial resources that could be used to carry out functions of public interest. Such regulation is proportionate in cases where there is no objective need to relocate a road or traffic object, but the relocation is related only to the subjective wishes of the owner of a property. However, there are also cases where a justified request to move a road or traffic object is based on objective necessity. In other words, there may be situations where the owner of immovable property has no way of acting in another way to meet the requirements of laws and regulations and, moreover, to not touch the road or traffic object. An example is where a structure on an immovable property has lost its original physical characteristics over time and may collapse, requiring demolition. In such a situation, it is not justified to make the owner of the immovable property bear the costs of moving the road or traffic object.

Third, the Constitutional Court concluded that the contested provision not only prohibits the assessment of the reason why the owner of immovable property had made a justified request for the relocation of the road or traffic object, but also does not allow to evaluate other circumstances. The obligation to cover the expenses of relocation of a road or a traffic object as contained in the contested provision is borne by any owner of immovable property, regardless of whether the owner is a natural or legal person, regardless of the financial situation of such person, the type of immovable property and other circumstances. The contested provision also does not allow the amount of relocation costs to be taken into account. Moreover, the contested provision does not provide for any criteria or limitations to the obligation of the owner of immovable property to bear the expenses related to the relocation of the road or traffic object. Thus, by including in the contested provision a mandatory obligation and not providing for the possibility to assess each specific factual situation, the legislator has not balanced the interests of the owner of immovable property and the public. Such a legal framework cannot achieve the fairest result in each case. That is to say, this legal framework fails to achieve the main objective of the legal system of a democratic state governed by the rule of law, which is justice. Hence, the contested provision, insofar as it does not provide for an individual assessment in cases where there is an objective necessity to relocate a road or traffic object, does not comply with the first three sentences of Article 105 of the Constitution.

Obligations imposed on a person for the public interest must be shared equally between that person and society.

Case No 2021-05-01
On the case [in English]
Judgment [in Latvian]
Press release [in Latvian]
Separate opinion: 1; 2 [in Latvian]

On 4 November 2021, the Constitutional Court adopted a judgment in Case No 2021-05-01 "On Compliance of Para 5 of Section 242 of the Civil Law with Article 96 and Article 110 of the Constitution of the Republic of Latvia".

The case concerned a legal provision which prohibits a person who has been punished for criminal offences related to violence from being a guardian of a child for life.

The case was initiated on the basis of an application by the Administrative District Court. It states that according to the contested provision, a person who has been punished for criminal offences related to violence or threatening of violence, regardless of extinguishing

of the criminal record or removal thereof, may not be a guardian. Based on the contested provision, the applicant in the administrative case was denied the right to become a guardian because she had committed a criminal offence related to violence as a minor. However, as the District Administrative Court notes, the applicant is married, her spouse has acquired the status of a guardian of children, and the children potentially to be wards have in fact been living with the family of the applicant for six months. Only if the applicant became a guardian would the effective exercise of the rights of the child and the legal protection of the family be ensured. Thus, the prohibition enshrined in the contested provision disproportionately restricts the right to inviolability of private life and the right to protection of the family.

First, the Constitutional Court terminated the proceedings in the part concerning compliance of the contested provision with Article 96 of the Constitution. The Court held that in the given case there was no restriction of the freedom of a person to form relations with other persons or the right to inviolability of family arising from Article 96 of the Constitution. However, Article 96 of the Constitution does not protect the desire to provide out-of-family care for a particular child.

Second, the Constitutional Court recognised that Article 110 of the Constitution included the obligation for the State to ensure protection also to a family formed as a result of out-of-family care for a child. In addition, this Article establishes the duty of the State to provide assistance to any child without parental care and the duty to ensure that the best interests of any child left without parental care are protected to the extent possible by encouraging their upbringing in a family environment. To fulfil these obligations, the State has, *inter alia*, created the institution of guardianship and established the procedure for appointing a guardian.
Third, the Constitutional Court noted that the prohibition established by the contested provision promotes the protection of every child left without parental care from violence by prohibiting a person whose actions had previously been aimed at endangering another person from being a guardian. This prohibition is absolute and applies to any person who wishes to be a guardian of a child, including a person who is a relative of the child or who has lived with the child in a common household for a long period of time. Thus, the contested provision precludes the best interests of the child, including the interest of the child to remain in the custody of their relatives or persons close to them, from being assessed in each particular case.

Fourth, the Constitutional Court recognised that by prohibiting a person punished for a criminal offence related to violence from becoming a guardian, the legislator had not considered the possibility that the behaviour of a person might change over time. Nor has the legislator assessed the need to ensure, as far as possible, that the child remains in a family or familiar environment. The legislator also has not considered how the prohibition set out in the contested provision affects the protection of *de facto* families formed as a result of out-of-family care for a child.

Finally, the Constitutional Court concluded that the Orphans' Court could assess each particular person who wished to become a guardian individually. In

such an individual assessment process, the Orphans' Court is obliged, as far as possible, to determine the opinion of the child, which is of particular importance in cases where a family relationship has already been established between the child and the potential guardian. Thus, the protection of the best interests of the child and the aim of the prohibition laid down in the contested provision can be achieved to the same quality by means less restrictive of the rights of the individual. Hence, the contested provision, insofar as it establishes an absolute prohibition, is not proportionate and does not comply with Article 110 of the Constitution.

Justice of the Constitutional Court Aldis Laviņš appended his separate opinion to the judgment. He stresses that the State has a duty to prevent all forms of violence against children with due diligence. It cannot be guaranteed that a person who has committed a violent offence in the past will never reoffend. Such a possibility also cannot be excluded by an assessment made by the Orphans' Court or constant monitoring of whether the guardianship of the child is being exercised in the best interests of the child.

The Justice of the Constitutional Court, Jānis Neimanis, also added his separate opinion to the judgment. The Justice pointed out that the court should have declared the contested provision non-compliant and invalid in its entirety and not in any part of the "absolute prohibition". This would improve clarity as to whether and to what extent the contested provision remains valid.

When drafting legislation which affects children, the legislator is obliged to assess the impact thereof on the rights of the affected child and to justify that it is done in the best interests of the child.

Case No 2021-07-01
On the case [in English]
Judgment [in Latvian]
Press release [in English]

On 2 December 2021, the Constitutional Court adopted a judgment in Case No 2021-07-01 "On Compliance of Section 14(6) of the Law on Remuneration of Officials and Employees of State and Local Government Authorities with Article 91 and Article 107 of the Constitution of the Republic of Latvia".

The case concerned a regulation that does not allow for officials with special service ranks working in institutions of the system of the Ministry of the Interior and the Prisons Administration to receive appropriate remuneration for their work on public holidays.

The case was initiated on the basis of an application by the Administrative District Court. It states that any person in the public service or in an employment relationship may be employed on public holidays in the cases provided for by law. However, only an exception is made for public service officials, which precludes

them from receiving appropriate remuneration for work on public holidays. Thus, the contested provision is incompatible with the principle of legal equality and unjustifiably restricts the right to receive commensurate remuneration for work done.

First, the Constitutional Court held that Public holidays are essential in strengthening Latvia as a state governed by democracy and rule of law. Public holidays highlight the most important events which make up the country, thereby maintaining and enhancing historical remembrance and national awareness for Latvian citizens. Public holidays emphasise the values common for the society as a whole. Honouring public holidays and passing down traditions from generation to generation strengthens the national identity. At the same time, the Court stressed the importance of time devoted to rest. Rest time, including on public holidays, is an essential part of life for everyone in employment, as an opportunity to commemorate the events underlying public holidays, on the one hand, and serving as time for recreation, on the other. Thus, it follows from Article 107 of the Constitution in conjunction with the international obligations of Latvia that public holidays must be holidays. Furthermore, public holidays must be paid holidays. Working on public holidays is acceptable only in particular cases.

Second, the Court noted that the work on public holidays must be separated from the work done on other days, considering that the employee, unlike other citizens, cannot honour public holidays and take rest. To this end, remuneration for work on public holidays carried out by service officials can not be the same as that established for work on other days. Thus, it means that the work on public holidays should be additionally compensated. Therefore, when establishing a remuneration system for officials in service, the legislator, in accordance with Article 107 of the Constitution, should also establish appropriate remuneration for work done on public holidays, which, moreover, should not only fulfil a function of remunerating for work, but a function of compensating nature as well.

Third, the Constitutional Court emphasised that by performing their public service on public holidays as well, the persons employed in public service ensured the continuity of the important functions of the State. National security and public well-being depend directly on the work of persons in public service. Moreover, service officials performing their duties on public holidays allow, *inter alia*, for other people in employment to enjoy paid rest. Therefore, the State should take all possible measures to promote a stable and professional public service to the maximum extent possible, which ensures high-quality functioning of the institutions of the system of the Prison Administration and the Ministry of the Interior. The fact that service officials are not compensated for their work on public holidays can in no way contribute to the national security or to the welfare of society, nor promote a continuous performance of service duties. At the same time, the Court added that, in accordance with the principle of fairness, officials must receive not only appropriate but also comparable remuneration for work performed under certain circumstances. It is not in accordance with the principle of fairness that service officials, who are required to work on public holidays, receive the same remuneration as officials who are not required to work on public holidays, if they work the same number of hours in a given period.

Taking into account the above, the Constitutional Court held that the legislator had failed to take appropriate measures to fulfil the positive obligation enshrined in Article 107 of the Constitution to determine an appropriate remuneration for service officials for the work done on public holidays, which would not only fulfil a function of remunerating for work, but a function of compensating nature as well. Hence, the contested provision does not comply with Article 107 of the Constitution in so far as it does not provide for the rights of service officials to receive appropriate remuneration for their work on public holidays.

In terms of appropriate remuneration for working on public holidays, it must not just exercise a function of remunerating for work, but also a function of compensating nature.

2.2. STATE LAW (INSTITUTIONAL PART OF THE CONSTITUTION)

During the reporting period, the Constitutional Court examined only one case directly related to the area of state law – a case regarding the limits of the legislator's authorisation to the Cabinet of Ministers to issue a regulatory framework in the field of energy (Case No 2021-03-03). However, other cases have also reached conclusions of particular relevance to state law. For example, Case No 2020-26-0106 concerned the relationship between the executive and the legislator during an emergency situation, Case No 2020-39-02 described constitutional identity and the values that form the cultural identity of the Latvian people, and Case No 2020-37-0106 assessed the functioning of the platform *e-Saeima* for the first time.

In Case No 2021-03-03 on infringements of the regulations on the use of natural gas, the Constitutional Court assessed the right of the Cabinet of Ministers to issue such legal regulation which differed from the general regulation governing civil law. The Court concluded that a situation where derogation from the general regulation of civil law (the Civil Law) is implemented by a Cabinet Regulation, rather than a law, is not permissible. By creating new legal relations, on which the legislator has neither decided, nor included in a law a corresponding authorisation to elaborate thereof, the Cabinet has exceeded the limits of the authorisation and has acted *ultra vires*.

In Case No 2020-26-0106 on gambling during the emergency situation, the Constitutional Court assessed the relations between the Cabinet of Ministers and the Parliament during an emergency situation for the first time.[28] The Court noted that the emergency situation is a special legal regime during which the Cabinet of Ministers has the right to restrict the rights and freedoms of State administration and local government institutions, natural and legal persons, as well as to impose additional obligations on them. The power given to the executive to adopt the legal provisions necessary for management of the emergency situation is based primarily on its ability to act quickly and adopt administrative acts of a predictive nature, as well as on the communication of the executive power with experts in the field who are able to assess the risks associated with the emergency situation from a scientific (epidemiological and infectiological) perspective. In a situation where the urgency of the situation does not allow waiting for the Parliament to adopt the relevant decisions within the legislative process, the Cabinet of Ministers is authorised to take certain steps which are normally within the competence of the Parliament, and such an arrangement is consistent with the principle of separation of powers. At the same time, the Court stressed that the additional powers delegated to the executive in such cases only extend its competence and power to act if necessary, but do not diminish the rights of the Parliament. In particular, the Parliament also grants the executive the power to adopt certain types of restrictions, while retaining it primarily and legitimately for itself.

In Case No 2020-39-02 on the Istanbul Convention, the Constitutional Court analysed the constitutional identity of Latvia, which helps distinguish it from other states.[29] Constitutional identity encompasses the state-specific legal identity and the identity of the state system. When reflecting the territory, people and state powers of a country in a constitution, non-legal factors such as history, politics, national, cultural and other factors which identify that country are taken into account. The identity of a particular state system is determined by the general principles of law which characterise that state system. A part of Latvia's constitutional identity is enshrined in Article 1 and in the Preamble of the Constitution. It should be noted that in this case the Court also described the legal nature of the Preamble of the Constitution and the values forming the cultural identity of the Latvian people.

In Case No 2020-37-0106 on the administrative-territorial reform, the Constitutional Court assessed, *inter alia*, the activities of the Parliament on the digital platform *e-Saeima*, i.e. the possibilities to exercise

28 Information on Case No 2020-26-0106 is included in the "Fundamental Rights" section of the report.
29 Information on case No 2020-39-02 is included in the "International and European Union law" section of the report.

the democratic process on such a digital platform.[30] The court ascertained: 1) whether the procedural arrangements for holding Parliament sittings on the platform *e-Saeima* were established and known to all Members of the Parliament; 2) whether the principle of openness of the sittings of the Parliament was observed when holding sittings on the platform *e-Saeima*; 3) whether, when reviewing a draft law and adopting a law on the platform *e-Saeima*, Members of the Parliament were able to exercise all their rights in accordance with the Constitution and the Rules of Procedure of the Parliament of the Republic of Latvia. The Court concluded that holding the Parliament sittings remotely is an emergency solution which allows for the continuity of the Parliament's work even in circumstances where, due to epidemiological safety and the restrictions imposed in relation thereto, it was impossible for the Members to meet in person. The Court stressed that the State has established a mechanism to ensure the uninterrupted functioning of the Parliament, which allows the most important issues to be decided by a constitutional body legitimised by the people.

Case No 2021-03-03
On the case [in English]
Judgment [in Latvian]
Press release [in Latvian]
A Justice's video commentary [in Latvian]
Separate opinion [in Latvian]

On 14 October 2021, the Constitutional Court adopted a judgment in Case No 2021-03-03 "On Compliance of Para 88 (in the wording in force until 12 August 2021) and Para 89 (in the wording in force until 24 January 2020) of Cabinet Regulation No 78 of 7 February 2017 "Regulations Regarding the Trade and Use of Natural Gas" with Article 64 and Article 105 of the Constitution of the Republic of Latvia and Section 107(7) of the Energy Law".

The case concerned the legal provisions governing the payment to be made by the energy user in the event of a breach of the conditions for the use of natural gas.

The case was initiated on the basis of applications made by courts. The applications state that the distribution system operator, joint stock company Gaso, has filed claims for debt recovery against energy users on the basis of the contested provisions. The disputes were related to the fact that energy users had arbitrarily installed a connection before a commercial metering device, or use natural gas without a commercial metering device, or a commercial metering device or seal was broken, and as a result of any of these actions, the natural gas consumption reading has been reduced or the possibility to use natural gas free of charge had been created (hereinafter – breach of the regulations on the use of natural gas). The applicants hold that the contested provisions, insofar as they provide for the

30 Information on Case No 2020-37-0106 is included in the "Administrative Territorial Reform" section of the report.

obligation of a household user to pay for the used natural gas in accordance with the differentiated consumption norms of natural gas established by the distribution system operator, are incompatible with Article 64 of the Constitution and the Section 107(7) of the Energy Law, as the Cabinet of Ministers has infringed the authorisation established by the legislator. Moreover, the contested provisions are also not compliant with the right to property, since the methods of determining the quantity of natural gas consumed and the double amount of the payment are not proportionate.

First, the Constitutional Court recognised that the Energy Law provides for an abstract authorisation to the Cabinet of Ministers to establish the procedure for the sale and use of natural gas, the procedure for settlements for services received, the rights and obligations of the distribution system operator and the user in the supply and use of natural gas, as well as other matters included in the authorising provisions. However, the Energy Law no longer contains such an authorising provision, which would explicitly refer to the Cabinet of Ministers' power to regulate the legal consequences of a breach of the regulations on the use of natural gas. With the liberalisation of the Latvian natural gas market and the change in its legal framework, such a mandate was excluded from the Energy Law.

Second, the Constitutional Court noted that civil law relations exist between the participants of the legal relations of natural gas supply. Under general civil law, the injured party seeking compensation for damages must prove the unlawful conduct of the person who caused the damage, the extent of the damage, and the causal link between the two. However, in the event of a breach of the regulations on the use of natural gas, the contested provisions exempt the distribution system operator from the obligation to prove the amount of damages, as this is presumed according to certain criteria. The distribution system operator is also relieved of the burden of proving that it is the energy user who is guilty of the unlawful conduct and not, for example, a third party. Thus, the contested provisions contain a special legal regulation which differs from the general civil law regulation. Such different regulation may be established either by the legislator itself or by the Cabinet of Ministers. However, the legislator has neither decided on derogations from the general regulation, nor has it provided the Cabinet of Ministers with a corresponding authorisation. Thus, by issuing the contested provisions, the Cabinet of Ministers has exceeded the limits of its authorisation and has acted *ultra vires*.

Third, the Constitutional Court rejected the argument that, by the contested provisions, the Cabinet of Ministers had established the procedure of settlement of payments for the services received. The term "procedure" reflects the procedural nature of the Cabinet Regulations, i.e. the power to establish a procedure. However, the contested provisions, in which the Cabinet of Ministers has established derogations from the general civil law regulation, create new legal relations which do not arise from the Energy Law. In addition, in the event of a breach of the regulations on the use of natural gas, the energy user does not pay for the service received, but compensates the distribution system operator for the damage caused by the wrongful action.

Fourth, the Constitutional Court concluded that its conclusions on *ultra vires* conduct of the Cabinet of Ministers were applicable not only to the contested provisions, but also to Paragraph 88 (in the wording in force), Paragraph 89 (in the wording in force from 25 January 2020 until 12 August 2021 and in the wording in force) and Paragraph 89.[1] (in the wording in force until 12 August 2021) of the relevant Cabinet Regulation. Hence, the Court extended the limits of the claim and declared that the above-mentioned legal provisions are not compliant with Articles 64 and 105 of the Constitution, as well as Section 107(7) of the Energy Law.

Judges Aldis Laviņš and Jānis Neimanis appended their separate opinions to the judgment. It is indicated therein that, by adopting the contested provisions, the Cabinet of Ministers had acted within the framework of the authorisation given by the Parliament. According to the judgement of the Constitutional Court, the Parliament is expected to write in the future in a direct text that the Cabinet of Ministers is authorised to determine the liability for theft of natural gas and the amount thereof. However, a more abstract provision, such as Article 107(7) of the Energy Law, also contains the same pattern of conduct.

Cabinet Regulations may not include such material legal provisions which, without the authorisation of the legislator, would form legal relations different from the authorising law and the legal regulation adopted by the legislator in the specific field of law.

2.3. TAX AND BUDGET LAW

During the reporting period, the Constitutional Court rendered three noteworthy judgments in the area of tax and budget law. Each of these focuses on a different aspect of the exercise of tax and budget law: Case No 2020-31-01 on the proportionality of tax fines was related to tax payment discipline, Case No 2020-40-01 on the remuneration of healthcare workers was related to the planning of the use of state budget funds within the framework of the adoption of the annual state budget, while Case No 2021-12-03 on tax reliefs concerned the modification or revocation of such reliefs.

The Constitutional Court has previously indicated in its case-law that the State, when adopting legal regulation providing for liability for violation of tax laws, is obliged, insofar as the nature of the particular legal relationship allows, to ensure that the penalty is individualised, i.e., that it corresponds to the violation committed.[31] However, in Case No 2020-31-01, the Court further emphasised that the effectiveness of fines for tax infringements is ensured at the highest level if the imposition of fines allows for a gradation of their severity according to the risk associated with the specific infringement. Moreover, in that case, the Court also described the culture of tax-paying in Latvia, recognising that it was linked to the consequences of the USSR occupation.

In Case No 2020-40-01, the Constitutional Court analysed medium-term budget planning for the first time. In Latvia, there are two types of budget planning – annual budget planning and medium-term budget planning. Medium-term State budget planning means that each year, a national budget law is adopted for the current year and a maximum permissible total amount of expenditures is set for the following two years. Medium-term budget planning, or the adoption of the annual Medium-Term Budget Framework Law, is one of the processes which embed the principle of budget sustainability enshrined in Article 1 of the Constitution in conjunction with Article 66 of the Constitution. This ensures that the annual state budget is directed towards long-term objectives and does not have a negative impact on the financial stability of the State, including the planning and implementation of the budgets of future years.

In turn, in Case No 2021-12-03, the Constitutional Court examined in depth the institution of tax reliefs. The Courts noted that the provisions governing tax reliefs are an expression of favour or support for certain individuals because of their situation or specific conduct. However, even when adopting legal provisions that determine tax relief, the issuer of these provisions shall observe the general legal principles and other provisions of the Constitution. Moreover, such obligation concerns the amendment of the amount of the tax relief or the application provisions to the detriment of the person or the cancellation of such relief.

Case No 2020-31-01
On the case [in English]
Judgment [in English]
Press release [in English]
A Justice's video commentary [in Latvian]

On 6 April 2021, the Constitutional Court adopted a judgment in Case No 2020-31-01 "On Compliance of Section 34(1) of the law On Taxes and Fees, insofar as it Envisages Calculation and Collection from the Taxpayer of a Fine in the Amount of 100 Percent of the Underpaid Tax Due to the Budget, with Article 105 of the Constitution of the Republic of Latvia".

The case concerned a legal provision which provides for a fine in the amount of 100 per cent of the underpaid tax due to the State budget if economic activity has been carried out without registering as a taxpayer for a particular tax (hereinafter – infringement of the obligation to register), or if declarations and documents necessary for calculating the tax are not submitted (hereinafter – infringement of the obligation to submit documents).

The case was initiated on the basis of a constitutional complaint. It indicates that the contested provision

31 See, for example, Judgment of the Constitutional Court of 3 April 2008 in Case No 2007-23-01, Para 11.

does not provide for the possibility for the law enforcer to choose the appropriate amount of the fine in an individual case. Namely, the nature of the infringement and the harm caused, the personality of the perpetrator, as well as mitigating and aggravating circumstances are not taken into account in determining the fine. Such a regulation is not proportionate and thus unjustifiably restricts the applicant's right to property.

First, the Constitutional Court recognised that the legislator had the right to establish punitive measures to influence the behaviour of taxpayers in order to ensure tax revenue. The fine provided for in the contested provision, which is to be applied without individual assessment in the event of an infringement of the obligation to register and the obligation to submit documents, must be regarded as such a punitive measure. However, as the Court stressed, the fines for tax infringements must not go beyond what is necessary to achieve the objectives of correct taxation and collection, as well as prevention of fraud. The control measures taken by the State must vary according to the nature of the infringement committed by the taxpayer.

Second, with regard to the infringement of the obligation to register, the Constitutional Court noted that such an infringement could manifest itself in various ways. There are situations where it is done through ignorance or carelessness, and situations where it is done through deliberate malice and is linked to tax evasion. Thus, the fine provided for in the contested provision in respect of an infringement of the obligation to register regulates situations, in which the degree of harmfulness of the infringement in question is different, in the same way. For this reason, it is necessary to individualise the fine according to the nature of the infringement. Thus, the legitimate aims of the restriction of the fundamental right contained in the contested provision, as regards the infringement of the obligation to register, can be achieved by less restrictive means. Consequently, the restriction of the fundamental right in question is not proportionate and does not comply with the first three sentences of Article 105 of the Constitution.

Third, with regard to the infringement of the obligation to submit documents, the Constitutional Court concluded that a fine for this infringement was due only if the taxpayer failed to submit the documents referred to in the contested provision within the time limit established by the tax administration and even within 30 days after its expiry. In a typical case, this is evidence of intentional tax avoidance by the taxpayer. If the circumstances of the infringement in question are sufficiently uniform, the legislator may set the amount of the fine at a level that is fixed in a typical case. Thus, in the case of an infringement of the obligation to submit documents, an individualisation of the amount of the fine is typically not necessary. The Court also took into account that the level of the shadow economy in Latvia is still high, while the understanding of the constitutional obligation of a person to pay taxes is insufficient. Hence, a fine in the amount of 100 percent of the underpaid tax due to the budget in respect of an infringement of the obligation to submit documents, without an individual assessment, is effective and dissuasive. Thus, the restriction of fundamental rights contained in the contested provision with regard to the infringement of the obligation to submit documents is proportionate and complies with the first three sentences of Article 105 of the Constitution.

The effectiveness of fines for tax infringements is ensured at the highest level if the imposition of fines allows for a gradation of their severity according to the risk associated with the specific infringement.

Case No 2020-40-01
On the case [in English]
Judgment [in Latvian]
Press release [in English]
A Justice's video commentary [in Latvian]

On 7 May 2021, the Constitutional Court adopted a judgment in Case No 2020-40-01 "On Compliance of the Programmes and Sub-programmes for Increasing the Remuneration of Health Care Workers of the law On the State Budget for 2020, insofar as They Do Not Provide for State Funding to Increase the Remuneration of Health Care Workers in 2020 as set out in Para 11 of the Transitional Provisions of the Health Care Financing Law, with Article 1 and Article 66 of the Constitution".

The case concerned the provisions of the State Budget Law for 2020, which provided for the financing of the remuneration of medical practitioners.

The case was initiated on the basis of an application submitted by the Ombudsman. It points out that the State Budget Law for 2020 allocates only about half of the increase in funding previously determined by the Parliament in Para 11 of the Transitional Provisions of the Health Care Financing Law to the salaries of health care workers. This is inconsistent with the duty of the legislator to respect the legal provisions it itself has issued and it creates legal uncertainty in society. Insufficient funding for the salaries of health workers is also inconsistent with the principle of sustainability.

First, the Constitutional Court held that the existence of the State was based on the principle of sustainability, and the requirement for the sustainability of the State also influenced the preparation of the budget. The Parliament has introduced medium-term budget planning to identify available resources over a longer period and to plan their use in line with national priorities. This means that each year, a national budget law is adopted for the current year, and a maximum

permissible total amount of expenditures is set for the following two years. The annual national budget must be consistent with the medium-term budget framework it falls within. However, the medium-term budget framework is revised each year, building on the previous medium-term budget framework while also taking into account the latest trends in the State's financial development and the most pressing priorities. As a result, priorities of a given size set out in one medium-term budget framework may be deemed off-track in the following year and may not be fully implemented in the light of changes in the actual situation.

Second, the Constitutional Court noted that by Para 11 of the Transitional Provisions of the Health Care Financing Law, the Parliament established the increase of remuneration of health care workers as a medium-term priority for 2019–2021. This priority has remained relevant for medium-term budget planning for 2020–2022. However, the Court stressed that the Cabinet of Ministers has relative discretion in the process of preparing the medium-term budget framework. This also applies to the assessment of whether and to what extent the medium-term priority actions proposed by the various institutions should be financed, taking into account the balancing opportunities between these, the state of public finances, and the urgency and political priorities of the State. The Cabinet must also comply with the laws and regulations governing budget planning, which provide for ensuring a balanced, sustainable budget.

Third, the Constitutional Court concluded that both the Cabinet of Ministers and the Parliament respected the priority established in Para 11 of the Transitional Provisions of the Health Care Financing Law and assessed the possibilities to ensure the desired financial means to achieve this end. The opportunities to achieve this objective were balanced against other priorities and the economic opportunities of the State, thus not breaching the legal provisions limiting the budget and not taking decisions which are financially risky. It is through the annual rebalancing of priority actions and the financial resources they require that the principle of sustainability is put into practice. By adopting the law On the Medium-term Budget Framework for Years 2020, 2021 and 2022, the Parliament confirmed that the task set out in Para 11 of the Transitional Provisions of the Health Care Financing Law has been fulfilled in accordance with its will and the financial possibilities of the State.

Fourth, the Constitutional Court recognised that the task assigned to the Cabinet of Ministers in Para 11 of the Transitional Provisions of the Health Care Financing Law had no direct impact on the law On the State Budget for 2020 from the very beginning. Thus, when submitting to the Parliament the draft law On the State Budget for 2020, the Cabinet of Ministers did not have to submit the draft law on amendments to Para 11 of the Transitional Provisions of the Health Care Financing Law, and the Parliament did not have to amend it.

Taking into account the above, the Constitutional Court concluded that the contested regulation complied with the principles of the rule of law, legal certainty and good law-making, and, therefore, also with Article 1in conjunction with Article 66 of the Constitution.

Medium-term budget planning is one of the processes that embed the principle of budget sustainability. This ensures that the annual state budget is directed towards long-term objectives and does not have a negative impact on the financial stability of the State.

Case No 2021-12-03
On the case [in English]
Judgment [in Latvian]
Press release [in English]

On 3 December 2021, the Constitutional Court adopted a judgment in Case No 2021-12-03 "On Compliance of Para 11 of the Riga City Council Binding Regulation No 111 of 18 December 2019 "Procedure for Granting Real Estate Tax Benefits in Riga" (in the wording in force until 31 December 2020) with Article 1 and the first sentence of Article 105 of the Constitution of the Republic of Latvia".

The case concerned a legal provision limiting the amount of tax benefit.

The case was initiated on the basis of an application by the Administrative District Court. It states that the applicant in an administrative case had received a property tax benefit since 2018 because she had carried out renovation and illumination works on the façade of the building. The benefit was granted for five years. However, on 30 January 2020, the contested provision entered into force, which stipulates that the amount of real estate tax benefit for a legal person in a tax year may not exceed *EUR* 10,000. Consequently, the real estate tax has been recalculated for the applicant for the period from February 2020 to December 2020. Thus, the contested provision is said to be incompatible with the principle of legal expectations and to unjustifiably restrict the right to property.

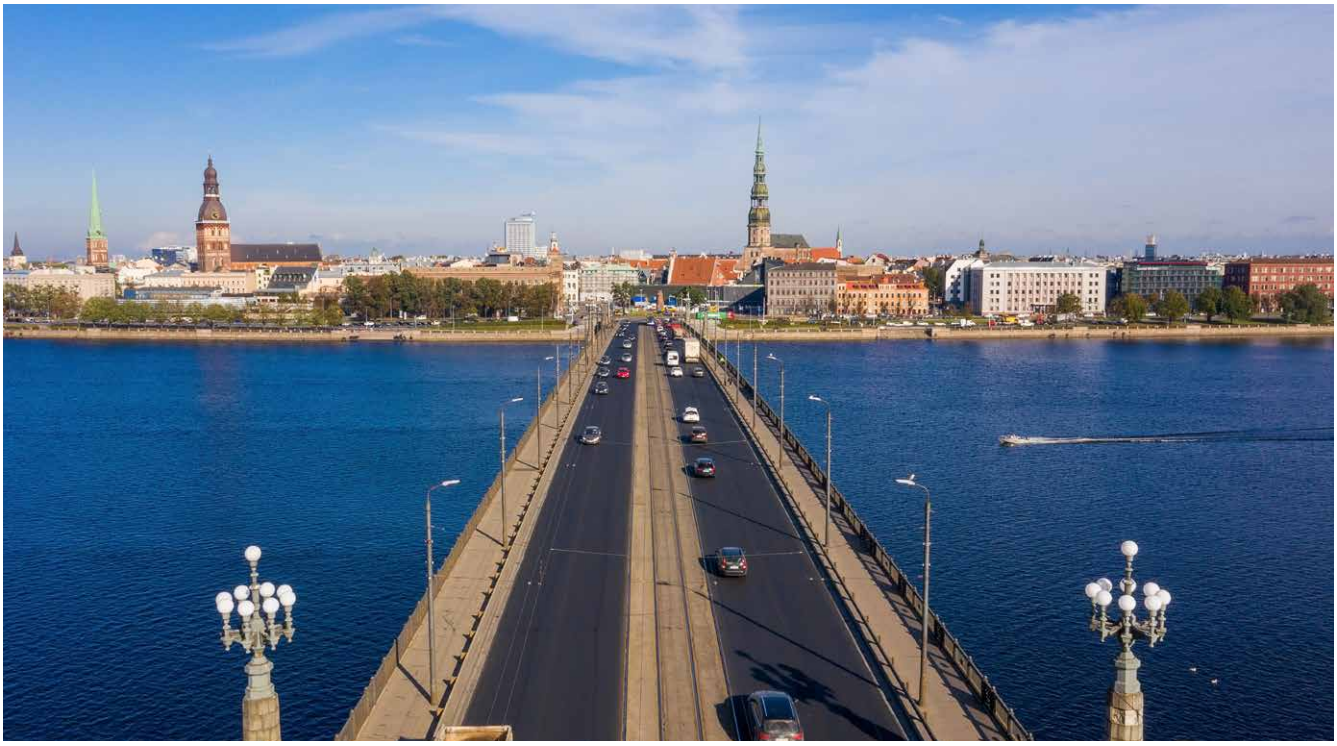
First, the Constitutional Court recognised that the State had a wide margin of discretion when establishing and implementing its tax policy. This discretion is even wider for the rules governing tax benefits. However, the issuer of such legal provisions must respect the principle of legal expectations. In particular, although the issuer of legal provisions has a relatively wide margin of discretion with regard to provisions

amending or repealing real property tax benefits, in certain exceptional cases a person may have a legal expectation that such benefits will apply to them for a specific, limited period of time. A situation where a sector or a person is given more favourable treatment for an indefinite period of time on the sole basis of a political initiative, linked to the risk of changes in political priorities, must be separated from a situation where a person has taken certain actions and fulfilled certain criteria, including the criteria of financial contribution, in order to receive a limited-time, specific tax benefit or other form of support.

Second, the Constitutional Court noted that the issuer of legal provisions was obliged to regularly review the tax benefits granted. However, such an analysis should be systematic and include aspects based on facts and policy choices, such as the effectiveness of the tax benefit in achieving its objective, the continued need to achieve that objective and a specific assessment of the amount of the tax benefit. A person's legal expectations cannot be violated on the basis of an abstract financial or other benefit to society, as such an approach fails to balance the interests of both parties and fails to prevent a situation of disproportionate harm caused to the person. Understanding who the affected persons are and to what extent their rights are affected is also crucial. Thus, it is incompatible with the principle of legal expectations, in conjunction with the right to property, for the amount of a person's financial obligations arising from the obligation to pay real estate tax on a given property, which they have a legal expectation to maintain for a given period of time for specific reasons, to be increased without any specific justification or assessment.

In view of the above, the Constitutional Court held that the Riga Council had not comprehensively and fully ascertained the impact of the contested provision on the legal relations already in place. Hence, the contested provision does not comply with the principle of legitimate expectation included in the scope of Article 1 of the Constitution in conjunction with the first sentence of Article 105 of the Constitution.

A person's legal expectations cannot be violated on the basis of an abstract financial or other benefit to society, as such an approach fails to balance the interests of both parties and fails to prevent a situation of disproportionate harm caused to the person.



2.4. INTERNATIONAL AND EUROPEAN UNION LAW

During the reporting period, the Constitutional Court examined one case related to the application of international law (Case No 2020-39-02) and two cases related to the application of European Union law (Case No 2018-11-01 and Case No 2020-49-01).

International Law

In Case No 2020-39-02, the constitutionality of several provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence (hereinafter - the Istanbul Convention) was assessed. This was the first time that the Constitutional Court assessed the constitutionality of an international treaty before its approval by the Parliament.[32]

With regard to the clarification of the content of the provisions of the Istanbul Convention, the Constitutional Court noted that in determining the object and purpose of an international treaty in good faith, the title of the treaty, the preamble, the purpose of the treaty postulated in the general body of the treaty, as well as the preparatory materials of the treaty and its content and substance as a whole must be taken into account. The title of the Istanbul Convention implies that it is intended to prevent and combat violence against women and domestic violence. The Istanbul Convention states in its preamble that its Parties condemn all forms of violence against women and domestic violence and recognise that the main tool to prevent violence against women is through the legal and effective implementation of equality between women and men. The Istanbul Convention aims to eliminate violence against women and domestic violence, thereby promoting gender equality. Consequently, all the obligations imposed on Member States by the Istanbul Convention are limited to the scope of application of the Convention in accordance with its object and purpose, i.e. the elimination of violence against women and domestic violence. The Court stressed that the concept of "gender" was included in the Istanbul Convention to explain how certain social roles or stereotypes contribute to undesirable and harmful situations and lead to violence against women being considered acceptable. This concept is not intended to replace the concepts of "man" and "woman".

European Union Law

In Case No 2018-18-01, the Constitutional Court assessed compliance of the contested provision with the right to inviolability of private life enshrined in Article 96 of the Constitution. European Union law has been used to flesh out this fundamental right. On 4 June 2019, while examining the case, the Constitutional Court also referred to the Court of Justice of the European Union for a preliminary ruling on a number of issues related to the application of European Union law.[33] The Court of Justice of the European Union responded to the request of the Constitutional Court with the conclusions of Advocate General Maciej Szpunar on 17 December 2020 and the Judgment of 22 June 2021.[34]

The Constitutional Court recognised that when adopting and applying national legal provisions, Latvia, being aware of the supremacy of European Union law enshrined in the second part of Article 68 of the Constitution, had to take into account the European Union law strengthening democracy and the interpretation thereof enshrined in the case-law of the Court of Justice of the European Union. Namely, while protecting the fundamental provision of the Republic of Latvia – a democratic state governed by the rule of law –, the Constitutional Court is obliged to ensure the application of European Union law which strengthens

32 Cf. Judgment of the Constitutional Court of 29 November 2007 in Case No 2007-10-0102 and Judgment of 7 April 2009 in Case No 2008-35-01.

33 See Decision of the Constitutional Court of 4 June 2019 on referring questions to the Court of Justice of the European Union for a preliminary ruling in Case No 2018-18-01 "On Compliance of Section 14.1(2) of the Road Traffic Law with Article 96 of the Constitution of the Republic of Latvia".

34 See the judgment of the Court of Justice of the European Union (Grand Chamber) of 22 June 2021 in Case C-439/19 "Parliament of the Republic of Latvia (*Points de pénalité*)".

Latvia as a democratic, legal state based on the inherent dignity and freedom of every human being.

The Constitutional Court noted that, according to Article 6(1) of the Treaty on European Union,[35] the European Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union[36] (hereinafter also – the Charter), and the Charter has the same force as the Treaty on European Union and the Treaty on the Functioning of the European Union. Moreover, in accordance with Article 6(3) of the Treaty on European Union, the European Union and Article 52(3) of the Charter, the fundamental rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the Convention), which derive from the constitutional traditions common to the Member States, are to be regarded as general principles of European Union law and the rights guaranteed by the Convention and contained in the Charter are to have the same meaning and scope as the rights established by the Convention. The Charter therefore also essentially incorporates the general principles of European Union law.

The Constitutional Court held that the right of a person to the protection of their data, enshrined in Article 8 of the Charter, as a general principle of European Union law, is ensured primarily in the sense that any processing of personal data must comply, first, with the data quality principles laid down in Directive 95/46[37] and Regulation 2016/679[38] and, second, with the principles enshrined in those legal acts according to which the data processing must be recognised as lawful. Thus, the contested provision, which provides for the processing of personal data, is essentially related to compliance with European Union legislation, namely Directive 95/46 and, thereafter, Regulation 2016/679. This means that the general principles of European Union law and, subject to Article 51(1) of the Charter, the Charter are applicable. Consequently, when specifying the right to inviolability of private life enshrined in Article 96 of the Constitution, it is necessary to ensure harmony with the right of the individual to protection of their data as a general principle of European Union law as reflected in Article 8 of the Charter. In this respect, particular account should be taken of the principles on the processing of personal data contained in Directive 95/46 and Regulation 2016/679, compliance with which falls within the scope of the right guaranteed by Article 96 of the Constitution. The requirements laid down in these EU laws are in line with the right to inviolability of private life enshrined in Article 96 of the Constitution and thus strengthen Latvia as a democratic state governed by the rule of law and based on the inherent dignity and freedom of every human being.

European Union law was also applied in Case No 2020-49-01.[39] When examining the case, the Constitutional Court first clarified whether it was appropriate to refer to the Court of Justice of the European Union for a preliminary ruling because, according to the applicant, there were different opinions on the case-law of the Court of Justice of the European Union applicable in the present case. The Constitutional Court noted that in any legal proceedings, the parties to the proceedings had different opinions. However, this alone cannot be grounds for referral to the Court

35 Official Journal of the European Union, C 202, 7 June 2016, pp. 1.

36 Official Journal of the European Union, C 202, 7 June 2016, pp. 389.

37 Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Official Journal of the European Union, L 281, 23 November 1995, pp. 31. Special edition in Latvian: Chapter 13, Vol. 15, pp. 355)

38 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC. Official Journal of the European Union, L 119, 4 May 2016, pp. 1.

39 Information on Case No 2020-39-02 is included in the "Fundamental Rights" section of the report.

of Justice of the European Union. It is the task of the Constitutional Court to ascertain which party has put forward arguments that are well-founded. Since the legal framework on State aid in this case was clear and did not give rise to any reasonable doubt, the Constitutional Court decided not to refer the case to the Court of Justice of the European Union.

As regards the legitimate aim of the restriction of fundamental rights, the Constitutional Court held that the provision of State aid in the present case was closely related to the legal framework of the European Union – Articles 107 and 108 of the Treaty on the Functioning of the European Union, Commission Decision 2015/162,[40] as well as the Banking Communication.[41] The restriction laid down in the contested provisions serves the purpose of ensuring that the creditors of subordinate liabilities do not receive an undue benefit, that State resources are not wasted and that the amount received in aid is returned to the State budget as far as possible. This restriction is therefore aimed at safeguarding the crucial interests of taxpayers and society as a whole. When aid is provided to a commercial company, it is essential that the creditors of subordinate liabilities bear a proportionate burden compared to the burden borne by the taxpayers. Hence, the legitimate aim of the restriction of fundamental rights contained in the contested provisions is to ensure the well-being of society.

When assessing the proportionality of the established restriction, the Constitutional Court clarified the obligations imposed on the Member State and the extent of discretion under European Union law. First, as regards the obligations of Member States, the Court held that the Banking Communication cannot create autonomous obligations for Member States. In particular, the Banking Communication should not be seen as obliging Member States to take the burden-sharing measures it envisages. However, the Banking Communication has authoritative force, which means that the notified aid is likely to be assessed by the European Commission in the view of the terms and conditions set out in the Banking Communication. Only in exceptional cases would it approve an aid project that does not meet the criteria set out in the Banking Communication.

Second, the Constitutional Court examined whether the Banking Communication and Commission Decision 2015/162 provided for the discretion of the State to introduce requirements regarding the burden-sharing mechanism. The Court held that the principle that burden-sharing measures may not worsen the situation of creditors of subordinate liabilities compared to the situation which would have arisen in the absence of the aid must be understood not as precluding the introduction of burden-sharing *per se*, but as one ensuring that burden-sharing is proportionate, that is to say, that the creditors of subordinate liabilities are not subject to an unreasonably heavy burden. Therefore, the 'no creditor worse off' principle does not mean that the claim of a subordinate creditor involved in the burden sharing must be satisfied in the same way as that of other creditors. For this reason, the Court concluded that the alternative means considered would not only fail to achieve the legitimate aim to the same degree, but would also infringe the legal framework of the European Union on the granting of aid.

Case No 2018-18-01
On the case [in English]
Judgment [in Latvian]
Press release [in English]
A Justice's video commentary [in Latvian]

On 13 November 2021, the Constitutional Court adopted a judgment in Case No 2018-18-01 "On Compliance of Section 14.[1](2) of the Road Traffic Law with Article 96 of the Constitution of the Republic of Latvia".

The case concerned a legal provision providing that information on the driver demerit points is publicly available.

The case was initiated on the basis of a constitutional complaint. It states that the applicant has a record of driver demerit points in the national register of vehicles and their drivers. It is said that the information on the above-mentioned points constitutes personal data and, in accordance with the contested provision, this information is accessible to the public. However, according to the applicant, the information on the driver demerit points should be restricted information. Thus, by the contested provision the legislator has unjustifiably restricted the applicant's right to inviolability of private life.

First, the Constitutional Court held that the right to inviolability of private life enshrined in Article 96 of the Constitution protects personal data. The clarification of these rights must be in harmony with the right of the individual to the protection of their data as a general principle of European Union law, as reflected in Article 8 of the Charter of Fundamental Rights of the European Union. In this respect, particular account should be taken of the principles on the processing of personal data contained in Directive 95/46 and Regulation 2016/679. Although the Court concluded that the legislator had not assessed the conformity of the contested provision with the provisions of the European Union law, it did not find this violation of the legislative procedure to be significant in the given case.

Second, the Constitutional Court noted that the disclosure of information on the driver demerit points

40 Commission Decision (EU) 2015/162 of 9 July 2014 on State aid SA.36612 (2014/C) (ex 2013/NN) implemented by Latvia for Parex, *Official Journal of the European Union*, 3 February 2015, L 27, pp. 12.
41 Communication from the Commission on the application, from 1 August 2013 , of State aid rules to support measures in favour of banks in the context of the financial crisis ('Banking Communication'), Official Journal of the European Union, 30 July 2013, C 216, pp. 1.

registered for a person was intended to deter that person and other persons from committing offences in road traffic. However, the legitimate aim can be achieved by other means which are less restrictive of the rights of persons. In particular, there is no reason to believe that the demerit point system could not improve road safety if the information on the demerit points registered for a person were not generally available. By making this information restricted, it would only be disclosed to persons with a road safety related and legitimate interest in receiving the information. The Court also emphasised that, where information on a the demerit points registered for a person is publicly available, there is a significant interference with the right to inviolability of private life and data protection of the person concerned, as this may lead to public disapproval and stigmatisation of the data subject.

Taking into account the above, the Constitutional Court concluded that the restriction of fundamental rights included in the contested provision was not proportionate and the contested provision did not comply with Article 96 of the Constitution.

While protecting the fundamental provision of the Republic of Latvia – a democratic state governed by the rule of law –, the Constitutional Court is obliged to ensure the application of European Union law which strengthens Latvia as a democratic, legal state based on the inherent dignity and freedom of every human being.

Case No 2020-39-02
On the case [in English]
Judgment [in English]
Press release [in English]
Press conference [in Latvian]

On 4 June 2021, the Constitutional Court adopted a judgment in Case No 2020-39-02 "On Compliance of Article 3(c), Article 4(3)and Article 12(1) of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence of 11 May 2011 with the Preamble, Articles 1, 99 and 110 of the Constitution of the Republic of Latvia, of Article 4(4) with Article 91 of the Constitution of the Republic of Latvia, and of Article 14 with Article 112 of the Constitution of the Republic of Latvia".

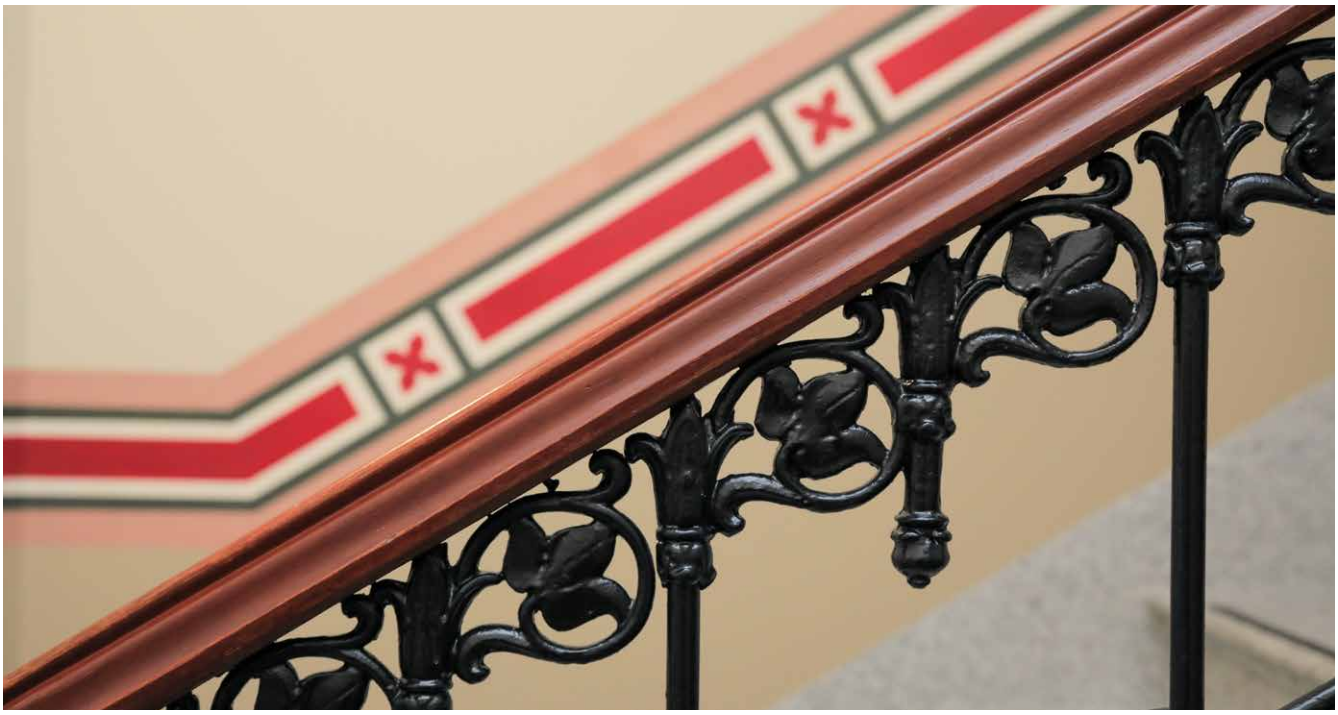
The case examined the provisions of the Istanbul Convention, which provide, *inter alia*, for the implementation of specific measures to protect women from gender-based[42] violence.

The case was initiated on the basis of an application submitted by 20 Members of the 13th convocation of the Parliament. It states that the contested provisions require the State to take measures to promote changes in the thinking and attitudes of society and to prevent discrimination against persons who do not identify with the sex assigned to them at birth. The contested provisions are said to not comply with the family and Christian values that form the constitutional identity of the Latvian State, the right to freedom of thought and conscience, and the obligation of the State to protect the traditional family. The application also argues that specific measures to prevent violence which apply to women only may result in unequal treatment on grounds of gender. Moreover, the obligation of the State to include in educational curricula matters concerning persons who do not identify with the gender assigned to them at birth is contrary to the right of parents to provide their children with an education that is consistent with their religious beliefs and philosophical convictions.

First, the Constitutional Court recognised that every state is characterised by its constitutional identity, which helps to distinguish it from other states. Constitutional identity is shaped by both universal legal provisions and extra-legal factors. The Christian values mentioned in the Preamble to the Constitution and the postulate that the family is the foundation of a united society are among the extra-juridical factors shaping the constitutional identity of Latvia. They reflect values, but are not in themselves binding rules of law. Therefore, the claim on the compliance of the contested regulation with Christian values and the postulate that the family is the foundation of a united society is not a claim on the compliance of the contested regulation with legal provisions of higher legal force. Consequently, the Court terminated the proceedings in the part concerning compliance of the contested regulation with the Preamble to the Constitution in conjunction with Article 1 of the Constitution.

Second, as the Constitutional Court pointed out, in a democratic state governed by the rule of law, it is not permissible for the State to impose a particular belief on an individual. However, the state has a duty to offer information to the individual about violence and the factors that lead to it, so as to prevent such violence. This also applies to gender-based violence. The mere fact that such information is offered to individuals does not mean that they are obliged to hold certain beliefs. Thus, the contested regulation does not restrict the right to freedom of thought, conscience and religion

42 The term 'gender' is defined in Article 3(c) of the Istanbul Convention: gender means the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men. The term "gender-based violence against women", according to Article 3(d) of the Istanbul Convention, refers to violence which is directed against a woman because she is a woman or which predominantly affects women.



enshrined in Article 99 of the Constitution. Hence, the proceedings in the part concerning compliance of the contested regulation with Article 99 of the Constitution were terminated.

Third, the Constitutional Court concluded that the obligation of the State to ensure, in a non-discriminatory manner, the disappearance of prejudices, customs, traditions and other practices based on the idea of the inferiority of women, as provided for in the contested regulation, did not *per se* affect the obligation of the State to protect the family. The obligation to protect the family is essentially concerned with the protection of the family as a collective social unit, whereas the obligations contained in the contested regulation are generally aimed at protecting individuals – women – from violence. Therefore, the Court terminated the proceedings in the part concerning compliance of the contested regulation with Article 110 of the Constitution. At the same time, the Court emphasised that the scope of the Istanbul Convention is limited to the elimination of violence against women and domestic violence and that the contested legislation does not impose the adoption or implementation of any particular form of marriage or family.

Fourth, the Constitutional Court recognised that political equality of the genders in Latvia was already recognised at the time of the establishment of the State. However, certain stereotypes about the roles of men and women in society have persisted to the present day – this means that the formal equality of women has not been sufficient to ensure actual equality between men and women in Latvian society. All the more, Latvia has one of the highest rates of violence against women in Europe. This means that gender-based violence in Latvia persists and most often affects directly women. Thus, conditions exist in Latvia that allow for the establishment of differential treatment of women in order to prevent gender-based violence and ensure *de facto* gender equality. Hence, the difference in treatment allowed under Article 4(4) of the Istanbul Convention has an objective and reasonable basis, therefore it is compatible with Article 91 of the Constitution.

Finally, the Constitutional Court noted that Article 14 of the Istanbul Convention imposes an obligation on Member States to assess the need to take specific measures to modify educational programmes and to disseminate educational material which is relevant to the purpose of the Convention. However, before the legislator has assessed the need for such measures and taken them, it is not possible to assess whether and how they affect the right of parents to raise their children in accordance with their religious or philosophical beliefs. Article 14 of the Istanbul Convention does not in itself restrict the right to education. Consequently, the proceedings in the part concerning compliance of Article 14 of the Istanbul Convention with Article 112 of the Constitution were terminated.

Under the legal system of Latvia, the prohibition of gender discrimination not only includes the prohibition to discriminate against a person on the basis of their anatomical characteristics, it also applies to social roles, behaviour, activities and characteristics that society considers appropriate for women and men.

2.5. CRIMINAL LAW AND CRIMINAL PROCEDURE

During the reporting period, the Constitutional Court examined two cases related to criminal law and criminal procedure law. Case No 2020-23-01 deals with the clarity of a legal provision of the Criminal Law and the temporal validity of a provision of criminal law regulated by a transitional provision of the Law Amendments to the Criminal Law. Case No 2021-09-01 examined whether the punishment for an administrative offence provided by the legislator is proportionate and whether the right to a fair court is satisfied by the fact that, when considering a case of administrative violation, the court does not have the power to impose a penalty lower than the minimum penalty provided for by the legislator.

In Case No 2020-23-01, the Constitutional Court repeatedly[43] addressed the issue of clarity of provisions of criminal law, assessing whether a legal provision which at the relevant time provided for criminal liability for negligent storage of ammunition of a firearm complied with Articles 90 and 92 of the Constitution. In particular, the contested provision in the case, *inter alia*, provided for criminal liability "For [...] negligent storage of firearm ammunition [...] in violation of the laws and regulations regulating the circulation of weapons, if such an offence creates an opportunity for another person to acquire such [...] ammunition of a firearm [...]". The applicant argued that the consequences provided for in the contested provision – creates an opportunity for another person to acquire ammunition of a firearm – do not meet the criterion of clarity of criminal law provisions, as such consequences were formulated in an abstract, instead of a specific and ascertainable manner. However, the Constitutional Court did not recognise that the contested provision did not comply with Articles 90 and 92 of the Constitution, as it established that the arguments of the applicant principally concerned the practice of application of the contested provision and that a person could foresee that the contested provision could be applied if another person had been given an opportunity to obtain ammunition of a firearm – *inter alia*, also in such cases when it had not been lost and another person had not actually acquired it. Hence, the contested provision was formulated in such a way as to ensure safeguards against arbitrary prosecution, conviction and punishment.

Case No 2020-23-01 also considered a matter not previously addressed in the case-law of the Constitutional Court, which was related to the retroactive application of more favourable regulation of criminal law. Although the provision of the Criminal Law under which the applicant was charged was amended while the applicant's criminal case was still pending (no longer criminalising negligent storage of ammunition that has not resulted in its loss and acquisition by another person), the clause of transitional provision of the law Amendments to the Criminal Law contested in the case did not provide for retroactive application of the more favourable provision for the applicant. The Constitutional Court noted that the legislator's choice in favour of decriminalisation of an act or mitigation of a punishment was an indication that the State and society now considered the punishment previously provided for to be excessively severe. Consequently, whenever a derogation is made from the principle of retroactivity in criminal law, the legislator must give specific reasons for such derogation, which was not done in the present case.

Meanwhile, one of the matters examined in Case No 2021-09-01 was whether the penalty provided for in the contested provisions for an administrative violation is proportionate. Although the Constitutional Court, as in its previous judgments[44], referred to the legislator's wide discretion in the area of policy on penalty, this was the first time then the Court assessed in detail the compliance of the penalty provided for a specific violation with the principle of proportionality enshrined in Article 1 of the Constitution, while taking

43 See Judgment of the Constitutional Court of 24 September 2020 in Case No 2019-22-01, Judgment of 21 January 2019 in Case No 2018-10-0103 and judgment of 16 December 2008 in Case No 2008-09-0106.

44 See also, for example, Judgment of the Constitutional Court of 19 November 2013 in Case No 2013-09-01 and judgment of 8 April 2015 in Case No 2014-34-01.

into account the case-law of the Court of Justice of the European Union regarding penalties provided for non-payment of road user charge. The Court noted that the proportionality of a penalty cannot be assessed solely by comparing the amount of the fine with the daily rate of the road user charge. Instead, it is necessary to evaluate whether the amount of the administrative penalty, which the legislator has determined in the exercise of its wide discretion, is proportionate to the objective which the legislator sought to achieve by means of that penalty. The Court concluded that the penalty provided for in the contested provisions complies with the principle of proportionality. The fact that the legislator could have provided for a lower minimum penalty does not mean that such a solution would be considered to be less restrictive of the rights of the individual.

The issue of the limits of the powers of the court, examined in Case No 2021-09-01, had not been previously assessed in the case-law of the Constitutional Court in the field of criminal law. The applicant, a court of general jurisdiction, held that the fine applicable under the contested provisions was disproportionate in the particular case, but it did not have the power to reduce the amount of the fine. Thus, the applicant considered that, in such a situation, it might not be regarded as a competent judicial authority with the power to decide on all matters necessary or, in other words, that the administrative violation in question was not subject to comprehensive judicial control. In the case-law of the Constitutional Court to date, the issue of whether a court has 'full jurisdiction' was assessed in the context of administrative proceedings.[45] In Case No 2021-09-01, it was held that the right to a fair court in its criminal aspect was applicable to the penalty provided for in the contested provisions. The Constitutional Court noted that in such a context, when ascertaining whether the requirement for post-control of decisions adopted in administrative violation proceedings in a judicial institution having 'full jurisdiction' was satisfied, it had to assess whether that judicial institution had the right to review such decisions both from the factual and legal point of view. As a result of the post-control of decisions, the court must be able to remedy the consequences of the irregular decisions of the authorities in respect of the punished person. The Constitutional Court concluded that in the cases provided for in the contested provisions, the court assesses, *inter alia*, whether an administrative violation has been committed and whether a particular person should be held liable and punished. On the other hand, "if the legislator, when determining a specific amount of fine to be imposed for a given administrative violation, had already assessed its compliance with the nature of the particular violation and such a fine is in itself proportionate, then a comprehensive judicial control over the decision on the administrative penalty does not in itself include the power of the court to review and to determine, at its discretion, the amount of the penalty at a level lower than that provided for the specific violation by the legislator". Thus, in the field of criminal law, the fact that the legislator limits the powers of the courts by setting a minimum level of penalties for certain violations is in line with both the principle of separation of powers and the right to a fair court.

Case No 2020-23-01
On the case [in English]
Judgment [in English]
Press release [in English]
A Justice's video commentary [in Latvian]

On 19 February 2021, the Constitutional Court adopted a judgment in Case No 2020-23-01 "On Compliance of Section 236(1) of the Criminal Law (in the wording effective until 31 March 2013) with Articles 90 and 92 of the Constitution of the Republic of Latvia and Compliance of the Transitional Provision of the law Amendments to the Criminal Law of 29 October 2015 with Articles 1 and 92 of the Constitution of the Republic of Latvia".

The case concerned the clarity and temporal validity of a legal provision criminalising negligent storage of ammunition of a firearm.

The case was initiated on the basis of a constitutional complaint. It states that the applicant has been found guilty of the criminal offence provided for in the contested provision of the Criminal Law. The provision was not sufficiently clear: although the consequences provided for therein (the possibility of another person acquiring ammunition of a firearm) were a mandatory feature of the offence in question, the provision provided only for the possibility of the occurrence of abstract consequences. Thus, it does not comply with the requirements of clarity and predictability of legal provisions arising from Article 90 and the second sentence of Article 92 of the Constitution. The contested transitional provision, in turn, is said to be contrary to Article 1 and the second sentence of Article 92 of the Constitution, as it precludes the retroactive application of the more favourable regulation.

First, the Constitutional Court held that, in accordance with Article 90 of the Constitution, legal provisions restricting fundamental rights of a person must be duly comprehensible and predictable. According to the second sentence of Article 92 of the Constitution, the legislator must word the provisions of criminal law in a way that guarantees are ensured to a person against arbitrary indictment, conviction and punishment.

In order to hold a person criminally liable for the commission of the criminal offence provided for in the contested provision of the Criminal Law, it is necessary

45 Judgment of the Constitutional Court of 22 December 2017 in Case No 2017-08-01.

to establish the feature provided for in this provision – an opportunity created for another person to acquire the objects or substances referred to in this provisions due to a violation of the law. This feature meets the requirements of clarity and predictability. The arguments put forward by the applicant merely indicate that the said provision is being applied in a manner which is not in accordance with the way he would have wished. The argument of the applicant that no clear and comprehensible criteria have been established for distinguishing between the offences provided for in the contested provision of the Criminal Law and the Section 181(1) of the Latvian Administrative Violations Code is also unfounded. Thus, a person could have predicted that the contested provision of the Criminal Law may be applied if an opportunity has been created for another person to acquire the objects referred to therein, including in cases where those objects have not been lost and have not been acquired by another person. Thus, the contested provision of the Criminal Law complies with Article 90 and the second sentence of Article 92 of the Constitution.

Second, the Constitutional Court noted that the law Amendments to the Criminal Law of 29 October 2015, *inter alia*, amended the composition of the criminal offence provided for in Section 236(1) of the Criminal Law. In particular, the scope of the offence was narrowed, providing criminal liability only for an offence resulting in the loss or acquisition by another person of the object or substance. Thus, before the court of the first instance had delivered its judgment in the criminal case, the conduct for which the applicant had been punished had already been recognised as such which does not entail criminal liability. However, the courts of all three instances held that the application of the contested provision of the Criminal Law was justified, as the contested transitional provision provided that the amendments to Section 236(1) of the Criminal Law did not apply to offences committed before the date of entry into force of the amendments, i.e. 3 December 2015.

The Constitutional Court concluded that Article 1 and the second sentence of Article 92 of the Constitution, taken together, contain the principle of retroactive effect of a rule in criminal law that is favourable to a person, which is applicable even in the case where the offence in question has been declared not to entail criminal liability. This principle requires the legislator to give retroactive effect to a provision of law that is more favourable to the offender. If a more severe punishment is imposed simply because it was provided for in the law at the time the offence was committed, this would mean that the rules on amendments to criminal law over time are applied to the detriment of the accused. This would disregard changes made to the law in favour of the defendant adopted before his conviction and punishments which the State – and the public it represents – now considers to be excessively severe would continue to be imposed. Although there may be cases where the principle of retroactivity of a provision in criminal law which is favourable to a person may be derogated from, the legislator must justify such derogation. In the present case, there is no objective justification due to which an exception to that principle should be made. Hence, the contested transitional provision, in so far as it does not provide for retroactive effect of amendments to Section 236(1) of the Criminal Law in respect of offences committed before 3 December 2015, is incompatible with Article 1 and the second sentence of Article 92 of the Constitution.

In accordance with the fundamental objective of the legal system of a democratic state governed by the rule of law, i.e. ensuring justice, a person cannot be subjected to punishment which the State already considers to be excessively severe at the time the provision in question is applied.

Case No 2021-09-01
On the case [in English]
Judgment [in Latvian]
Press release [in English]

On 29 December 2021, the Constitutional Court adopted a judgment in Case No 2021-09-01 "On Compliance of Section 9.[1](2) of the Law on the Road User Charge in the Wording Effective until 30 June 2020 and Section 149.[40](2) of the Latvian Administrative Violations Code in the Wording Effective from 1 January 2017 to 30 June 2020 with Article 1 and the First Sentence of Article 92 of the Constitution of the Republic of Latvia".

The case concerned the legal provisions providing for an administrative penalty for infringement of the regulation on the road user charge.

The case was initiated on the basis of an application submitted by the Rēzekne Court. It states that the State Police has imposed administrative penalties on a legal entity for the administrative offence provided for in Section 149.[40](2) of the Latvian Administrative Violations Code – non-payment of the road user charge. The offences were recorded by technical means without stopping the vehicle. According to Section 9.[1](2) of the Law on the Road User Charge, a person is liable for the minimum fine imposed on a carrier for each offence, i.e. *EUR* 500. According to the applicant, the above-mentioned amount of fine is disproportionate, however, the contested provisions do not provide the court with the possibility to reduce the amount of the fine. Thus, the contested provisions are allegedly incompatible with the principle of proportionality and the right to a fair court.

First, the Constitutional Court held that the amount of the fine established by the legislator was proportionate. If the legislator has assessed whether the amount of the fine is commensurate to the nature of the violation, including as regards the minimum and maximum limits of the fine, the mere fact that there is a possibility of imposing an even lower fine for a particular violation does not mean that the legislator has exceeded the limits of its discretion. Hence, the contested provisions comply with Article 1 of the Constitution.

Second, the Court noted: in order for the court, when exercising control over decisions imposing a penalty on persons for an administrative violation, to be able to reach a fair result in the judicial proceedings, it must, *inter alia*, have the appropriate powers to assess the circumstances relevant to the case and to verify the lawfulness and validity of the decision taken by the authority, both from a factual and a legal point of view. If the decision of the authority to impose an administrative penalty does not conform to legal provisions, the court must have the power to remedy the consequences of such a decision for the person concerned.

Third, the Constitutional Court recognised that in an administrative violation case, the court assesses both whether an administrative penalty is applicable to a person in the given factual circumstances and whether the actions of the authority in the administrative violation proceedings comply with the provisions of laws and regulations. Depending on its findings, the court has the power to revoke the decision adopted by the authority or, in certain cases, to refer it back to the authority for reconsideration. At the same time, the Court emphasised that it is primarily the duty of the legislator to assess the proportionality of the type and amount of the penalty to be imposed for a particular administrative violation. The authority and the court, in turn, ensure that the administrative penalty is individualised within the limits set by the legislator. So, if the legislator, when determining a specific amount of fine to be imposed for a given administrative violation, had already assessed its compliance with the nature of the particular violation and such a fine is in itself proportionate, then a comprehensive judicial control over the decision on the administrative penalty does not in itself include the power of the court to review and to determine, at its discretion, the amount of the penalty at a level lower than that provided for the specific violation by the legislator. Thus, the Court held that in administrative violation cases regarding violation of the regulations on payment of road user charge, which is registered with technical means, comprehensive judicial control over decisions on the application of an administrative penalty is exercised. Hence, the contested provisions comply with the first sentence of Article 92 of the Constitution.

The Court cannot take the place of the legislator and re-estimate the effectiveness of the means intended to achieve the objective of the policy on administrative penalty.

2.6. ADMINISTRATIVE-TERRITORIAL REFORM

During the reporting period, 19 cases were initiated before the Constitutional Court on the administrative-territorial reform introduced by the Law on Administrative Territories and Populated Areas of 10 June 2020. The Constitutional Court consolidated these into three cases and rendered three judgments – in Case No 2020-37-0106, Case No 2020-41-0106 and Case No 2020-43-0106. Through those judgments, the Constitutional Court has made a significant contribution, *inter alia*, to the exploration of the content of the principles of local self-government, of good law-making and of subsidiarity.

The Constitutional Court has already addressed in its case law several cases[46] which concerned the previous administrative-territorial reform implemented in 2009. For example, in Case No 2008-08-0306, the Court held that it is not competent to assess the political expediency of a reform, i.e. the Court is only competent to assess a particular case insofar as it can be covered by legal arguments, separate from political considerations. The principle of subsidiarity, enshrined in the European Charter of Local Self-Government, which aims to bring decision-making closer to citizens, is a primarily political principle. Since the reform does not directly affect the functions of local governments, the Court had no reason to assess compliance with the subsidiarity principle in the case. Moreover, the distribution of functions between the state and local governments can change depending on the tasks of public administration, political priorities, and knowledge of management science. Thus, the determination of functions and the redistribution thereof in favour local authorities is essentially a political issue, dominated by considerations of political expediency.

In Case No 2009-04-06, the Court assessed whether the applicant – Vecpiebalga Parish Council – was duly heard before the adoption of the Law on Administrative Territories and Populated Areas of 18 December 2008. The Court held that the principle of local self-government arising from Article 1 of the Constitution, *inter alia*, provides for the right of a municipality, in the event of a change of its borders, to become acquainted with a sufficiently specific draft of the planned municipality, to discuss it and to express its opinion. The municipality also has the right to rely on its opinion being taken into account, even if the final decision is different. However, the rights deriving from the principle of self-government may be limited in exceptional cases in order to safeguard other values enshrined in the European Charter of Local Self-Government and the Constitution.

In the cases examined during the reporting period, the Constitutional Court developed a detailed methodology for assessing the constitutionality of legal provisions regulating administrative-territorial reforms. In order to assess the compliance of the contested provisions with the provisions of higher legal force, it was established, first, whether the contested provisions had been developed and adopted in due procedural order and, second, whether the legislator had acted arbitrarily.

When assessing the procedural order of the development and adoption of the contested provisions, the Constitutional Court examined: 1) whether consultations with the relevant local governments during the drafting and consideration of these provisions were carried out in accordance with the legal provisions; 2) whether the contested provisions were considered and adopted by the Parliament in accordance with the legal provisions.

The examination of whether consultations with the relevant local governments during the drafting and consideration of the contested provisions was carried out in accordance with the legal provisions included the following aspects: 1) whether the local government council had the opportunity to prepare a municipal opinion and to submit its proposals and objections regarding the planned reform to the responsible public authorities, after having sought the views of the

46 See, for example, Decision of the Constitutional Court of 20 January 2009 on termination of legal proceedings in Case No 2008-08-0306 and the judgment of 30 October 2009 in Case No 2009-04-06.

residents of the municipality as well; 2) whether the time allowed for this was reasonable; 3) whether the proposals and objections of the municipalities were taken into consideration.

In order to establish whether the consideration and adoption of the contested provisions by the Parliament was carried out in accordance with the legal provisions, the following facts were examined: 1) issues related to the establishment of the Administrative Territorial Reform Commission of the Parliament of the Republic of Latvia and the transfer of the draft Law on Administrative Territories and Populated Areas to this Commission; 2) issues related to the holding of Parliament sittings remotely on the platform *e-Saeima*.

Meanwhile the assessment of whether the remote sittings of the Parliament, at which the contested provisions were adopted, were held in accordance with the legal provisions examined the following aspects: 1) whether the procedural arrangements for holding Parliament sittings on the platform *e-Saeima* were established and known to all Members of the Parliament; 2) whether the principle of openness of the sittings of the Parliament was observed when holding sittings on the platform *e-Saeima*; 3) whether, when reviewing the draft law in the third reading and adopting the Law on Administrative Territories on the platform *e-Saeima*, Members of the Parliament were able to exercise all their rights in accordance with the Constitution and the Rules of Procedure of the Parliament of the Republic of Latvia.

Finally, to determine whether the Parliament acted arbitrarily, it the Court had to establish: 1) whether the objective of the reform has been defined and is aimed at public benefit; 2) whether the criteria underlying the reform are aimed at achieving the objective of the reform; 3) whether, in adopting the contested provisions, the legislator has respected the objective of the reform and the criteria for achieving thereof; 4) whether the legislator has weighed the direct interests of the local community, namely the advantages and disadvantages of a particular solution to administrative-territorial division, including whether, in adopting the according provisions, the legislator has respected the democratic participation rights of the local community.

When assessing the lawfulness of the administrative-territorial reform, the Constitutional Court emphasised that, taking into account the doctrine of relevance and the principles of parliamentary democracy, the legislator had the discretion to decide on issues related to the administrative-territorial division. When adopting decisions related to administrative-territorial reform, the legislator must balance the different interests of specific local governments and the common interests of society, but it is not obliged to assess the conformity of these decisions with the principle of proportionality in the sense that it does when imposing restrictions on fundamental rights. However, a reform cannot be based solely on economic considerations and financial gain.

In line with the principle of good governance, the State has a duty to keep public administration and the administrative system under constant review and, where necessary, to improve it so that it operates as efficiently as possible. The objective of the administrative-territorial reform, which is aimed at eliminating the identified shortcomings, is in line with the common interests of the Latvian society as a whole. The objective of the administrative-territorial reform is thus directed towards the common good of society.

The involvement of experts from different sectors in the reform is viewed positively. This allows for a more comprehensive assessment of the likely effects of the reform and gives the legislator a better understanding of the nature of the decisions to be taken. However, when deciding on administrative-territorial division, the legislator must balance the individual interests of the municipalities with the common interests of society, as well as ensure the development of a sustainable legal framework. It is for the legislator to decide in the political process what considerations should have precedence. Expert opinions do have significance in the reform process, but they cannot replace the right of the Parliament to choose the most appropriate solution, as long as it is based on rational considerations. At the same time, the Constitutional Court held that in a democratic state governed by the rule of law, the principle of the rule of law also implies the requirement that the legislator applies the criteria underlying the reform equally to all local governments, while rationally justifying any exception.

The methodology used in the judgments could be divided into two parts: that which concerns the assessment of the procedural aspects of the case and that which concerns the assessment of the substantive aspects of the case. These two aspects were of fundamental importance for the assessment of the constitutionality of the contested provisions. However, in these cases it was the substantive aspect that was decisive, as the Constitutional Court recognised that several contested provisions were unconstitutional because the legislator had not taken into account the objective of the reform, which it had set itself, and the criteria for achieving thereof. In particular, several municipalities were included without rational justification in newly created municipalities which do not have a development centre of regional or national significance defined in the national development planning documents. This conclusion is consistent with the case-law of the Court that law and rights, including general principles of law, are binding on every public authority, including the legislator itself.[47]

47 See, for example, Judgment of the Constitutional Court of 3 January 2012 in Case No 2011-11-01, Para 16.

Case No 2020-37-0106
On the case [in English]
Judgment [in English]
Press release [in English]
Press conference [in Latvian]

On 12 March 2021, the Constitutional Court delivered a judgment in Case No 2020-37-0106 "On Compliance of Sub-paragraphs 28.2, 28.19 and 35.4 of the Annex 'Administrative Territories, Their Administrative Centres and Territorial Units' to the Law on Administrative Territories and Populated Areas with Article 1 and Article 101 of the Constitution of the Republic of Latvia, Article 4(3), 4(6) and Article 5 of the European Charter of Local Self-Government".

The case concerned the legal provisions providing for the incorporation of the Skulte parish of the former Limbaži municipality into the Saulkrasti municipality and the merger of the Ikšķile municipality with the Ogre municipality.

The case was initiated on the basis of applications filed by Limbaži Municipality Council and Ikšķile Municipality Council. The application from Limbaži Municipality Council states that the former Skulte parish of Limbaži municipality was originally planned to remain in Limbaži municipality, but eventually it was made a part of the new Saulkrasti municipality. The Parliament failed to ascertain the opinion of the residents of Limbaži municipality and has violated the principles of good law-making, local government and proportionality. The application of Ikšķile Municipality Council indicates that the former Ikšķile municipality has been amalgamated with Ogre municipality. The Parliament has not properly assessed the possibility to maintain Ikšķile municipality as an independent municipality or to amalgamate it with Salaspils Municipality. The Parliament violated the principles of good law-making, local government and subsidiarity, as well as failed to properly consult with the Ikšķile Municipality Council and its residents.

First, the Constitutional Court held that the implementation of an administrative-territorial reform must respect the common good of society. The legislator enjoys a wide discretion in specifying this, however, this discretion should not be exercised arbitrarily. The legal framework adopted by the legislator must be based on rational considerations and be aimed at the sustainable development of the State. The legislator must take into account different considerations and reconcile different interests.

Second, the Constitutional Court concluded that the contested provisions did not provide for the reallocation of functions between the local and central authorities and, consequently, did not interfere with the principle of subsidiarity. Therefore, the proceedings in the part concerning the compliance of the contested provisions with Article 4(3) of the European Charter of Local Self-Government were dismissed.

Third, the Constitutional Court indicated that, in accordance with the principle of self-government, in the event of changes in the borders of its administrative territory, each local self-government must have the possibility to familiarise with a sufficiently specific draft of the envisaged changes and to discuss it within a reasonable period of time, if possible, involving the residents of the territory concerned in this discussion; on the basis of the results of this discussion, to adopt a relevant decision in the municipality council and to rely that the opinion expressed in the local government decision will be taken into account by the public authorities. The arguments put forward in the decision of the municipality council should be considered, but this does not mean that the final decision taken by the public authority will be any different. A municipality has no 'veto power' over changes to the borders of its territory. In the present case, the Court found that the municipalities had been duly heard.

Fourth, the Constitutional Court recognised that the process of consideration and adoption of the contested provisions by the Parliament had been carried out in accordance with the Constitution and the Rules of Procedure of the Parliament of the Republic of Latvia. The Parliament had the right to establish a special commission specifically to examine the draft Law on Administrative Territories and Populated Areas and to designate it as the commission responsible for the draft law. In addition, the commission could be established on the basis of equal representation, and the post of head of the commission could be combined with the post of parliamentary secretary. The Court also found no breaches in holding the Parliament sittings remotely on the platform *e-Saeima*. Procedural arrangements for Parliament meetings on the platform *e-Saeima* were established and known to all Members. The Parliament session at which the draft law was considered and adopted ensured the principle of openness of the Parliament sitting. By considering the draft law in the third reading and adopting it on the platform *e-Saeima*, the deputies were granted all the rights set out in the Constitution and the Rules of Procedure of the Parliament of the Republic of Latvia.

Fifth, the Constitutional Court noted that the criteria of the administrative-territorial reform were aimed at ensuring that each local government would be able to perform its autonomous functions more efficiently. Better and more efficient local governance and proportionate costs for the services they provide to citizens are in line with the public interest. The criteria underpinning the reform are thus aimed at achieving the objective of the reform. The legislator may derogate from them in exceptional cases only, provided that such derogation is justified on rational grounds and is consistent with the objective of the reform.

One of the criteria for the administrative-territorial reform is that a development centre of regional or national importance as defined in national development planning documents must be located

in the territory of a municipality. Limbaži is such a centre, while Saulkrasti is not identified as such by the national development planning documents. Thus, by separating Skulte municipality from the former Limbaži municipality and including it in the new Saulkrasti municipality, the legislator has not respected the criteria underlying the reform. The legislator has not provided a rational justification for its decision and has thus acted arbitrarily.

However, when including Ikšķile municipality in Ogre municipality, the legislator has respected the criteria underlying the reform. The decision to include Ikšķile municipality in Salaspils municipality or Ogre Municipality, if the criteria underlying the reform are respected in both cases, depends on a political decision, which is not subject to review by the Constitutional Court. However, maintaining Ikšķile as a separate administrative territory would not meet the criterion underlying the reform that the centre of a municipality is also a development centre of regional or national importance.

Finally, with regard to the inclusion of Ikšķile municipality into Ogre municipality, the Constitutional Court examined whether the legislator, when implementing the reform, had respected the democratic participation rights of the residents. In the case of local authorities, the democratic right of participation also includes the ability of citizens to directly and immediately influence the decision-making on issues of local importance. The legislator must provide mechanisms for citizens to participate actively and fully in the work of local governments and to have an effective say in the decisions that affect their city or municipality.

The Court concluded that according to the transitional provisions of the Law on Administrative Territories and Populated Areas, the Parliament and the Cabinet of Ministers had yet to adopt several normative acts related to the implementation of the reform. Among other things, the Cabinet of Ministers must draft and submit to the Parliament for its consideration a draft law which provides for the right of local communities (towns and municipalities) to democratically elect their representatives and grant such local communities the competence to solve issues of local significance. This law has not yet been adopted. It is therefore not possible to assess the democratic participation rights of citizens in the reformed municipalities before the reform is complete. Therefore, there is no reason to conclude that the legislator has acted arbitrarily with regard to the local community of Ikšķile municipality.

Taking into account the above, the Constitutional Court held sub-paragraph 35.4 of the Annex 'Administrative Territories, Their Administrative Centres and Territorial Units' to the Law on Administrative Territories and Populated Areas as compliant with Article 4(6) and Article 5 of the European Charter of Local Self-Government, but non-compliant with Articles 1 and 101 of the Constitution. In turn, sub-paragraphs 28.2 and 28.19 of the said Annex were declared to be compatible with both Articles 1 and 101 of the Constitution, as well as with Article 4(6) and Article 5 of the European Charter of Local Self-Government.

The Constitution does not prevent the legislator from implementing administrative-territorial reform in the public interest, provided that it is done in accordance with legal provisions, i.e. the legislator does not act arbitrarily.

Case No 2020-41-0106
On the case [in English]
Judgment [in Latvian]
Press release [in English]

On 21 June 2021, the Constitutional Court adopted a judgement in Case No 2020-41-0106 "On Compliance of sub-paragraphs 8.5, 8.7, 8.8, 8.16, 8.17, 8.19, 8.20, 10.2, 10.6, 10.7, 10.8, 10.17, 10.18, 10.21, 10.23, 11.2, 12.10, 12.13, 13.8, 13.9, 13.13, 13.16, 13.20, 16.2, 16.5, 16.11, 16.14, 16.18, 16.19, 16.20, 18.1, 18.8, 18.10, 19.18, 19.20, 23.1, 23.2, 23.3, 23.4, 23.5, 23.6, 23.8, 23.12, 23.13, 23.14, 23.15, 27.1, 27.3, 39.1, 39.8, 39.9, 39.12, 39.19, 39.21, 39.22, 41.14, 41.15, 41.18, 41.22 and 41.23 of the Annex 'Administrative Territories, Their Administrative Centres and Territorial Units' to the Law on Administrative Territories and Populated Areas with Articles 1 and 101 of the Constitution of the Republic of Latvia, Article 4(3), 4(6) and Article 5 of the European Charter of Local Self-Government.

The case was initiated on the basis of applications submitted by the municipality councils of Jaunjelgava, Ilūkste, Carnikava, Rugāji, Iecava, Rundāle, Auce, Ozolnieki, Sala, Salacgrīva, Aloja, Babīte, Kandava and Mazsalaca. They state that the Parliament, by reforming these municipalities, acted contrary to the objectives of the administrative-territorial reform and its underlying criteria, as well as violated the principle of self-government, the principle of good law-making and other general principles of law. The contested provisions also are said to have been drafted without observing the principle of subsidiarity and without proper consultation with the residents and councils of the regions.

First, the Constitutional Court noted that the contested provisions did not provide for reallocation of functions between a local government and the central authority and, consequently, do not interfere with the principle of subsidiarity. Therefore, the proceedings in the part concerning the compliance of the contested provisions with Article 4(3) of the European Charter of Local Self-Government were dismissed.

Second, the Constitutional Court held that the applicants had had the opportunity to prepare their opinions on the planned solution of administrative-territorial division, as well as to submit proposals and objections to the responsible State institutions within a reasonable period of time. The proposals and objections submitted by the local governments had been evaluated as part of the consultation process.

Third, the Constitutional Court concluded that the legislator had included the former Ilūkste Municipality into the new Augšdaugava Municipality, and the former Ozolnieki Municipality – into the new Jelgava Municipality. However, none of these new municipalities has a development centre of regional or national significance, although such a centre is one of the criteria underlying the reform. The legislator has not provided rational considerations as to why, in establishing the new municipalities without a development centre of regional or national significance in their territory, it had derogated from the criterion underlying the reform and in what way this solution would allow to achieve the aim of the reform.. Thus, in deciding to include the existing Ilūkste municipality in the new Augšdaugava municipality and Ozolnieki municipality into Jelgava municipality, the legislator has failed to comply with the aim and criteria of the reform and had acted arbitrarily. On the other hand, as regards the municipalities of Jaunjelgava, Carnikava, Rugāji, Iecava, Rundāle, Auce, Sala, Salacgrīva, Aloja, Babīte, Kandava and Mazsalaca, the Court found that the aim and criteria of the administrative-territorial reform in reforming these municipalities had been complied with, therefore no arbitrariness of the legislator was established.

Fourth, the Constitutional Court emphasised that it would be possible to assess the mechanisms for democratic participation of the residents of the municipality towns and rural territories that are part of the newly established municipalities after the reform has been completed. At this stage, there is no reason to conclude that the residents would lose democratic participation rights as a result of the reform.

Taking into account the above, the Constitutional Court held sub-paragraphs 10.2, 10.6, 10.7, 10.8, 10.17, 10.18, 10.21, 10.23, 18.1, 18.8 and 18.10 of the Annex 'Administrative Territories, Their Administrative Centres and Territorial Units' to the Law on Administrative Territories and Populated Areas as compliant with Article 4(6) and Article 5 of the European Charter of Local Self-Government, but non-compliant with Articles 1 and 101 of the Constitution. However, sub-paragraphs 8.5, 8.7, 8.8, 8.16, 8.17, 8.19, 8.20, 11.2, 12.10, 12.13, 13.8, 13.9, 13.13, 13.16, 13.20, 16.2, 16.5, 16.11, 16.14, 16.18, 16.19, 16.20, 19.18, 19.20, 23.1, 23.2, 23.3, 23.4, 23.5, 23.6, 23.8, 23.12, 23.13, 23.15, 23.16, 27.1, 27.3, 39.1, 39.8, 39.9, 39.12, 39.19, 39.21, 39.22, 41.14, 41.15, 41.18, 41.22 and 41.23 of the above Annex were declared to be compliant with Articles 1 and 101 of the Constitution and with Article 4(6) and Article 5 of the European Charter of Local Self-Government.

When deciding on administrative-territorial division, the legislator must balance the individual interests of the municipalities with the common interests of society, as well as ensure the development of a sustainable legal framework.

Case No 2020-43-0106
On the case [in English]
Judgment [in Latvian]
Press release [in Latvian]
Press conference [in Latvian]

On 28 May 2021, the Constitutional Court adopted a judgment in Case No 2020-43-0106 "On Compliance of Sub-paragraphs 31.15, 31.29, 31.30, 32.1, 32.4 and 36.2 of the Annex 'Administrative Territories, Their Administrative Centres and Territorial Units' to the Law on Administrative Territories and Populated Areas with Article 1 and Article 101 of the Constitution of the Republic of Latvia, Article 4(3), 4(6) and Article 5 of the European Charter of Local Self-Government".

The case concerned the legal provisions providing for the incorporation of Varakļāni municipality into Rēzekne municipality, the incorporation of Garkalne municipality and town of Vangaži into Ropaži municipality, as well as the incorporation of Inčukalns municipality into Sigulda municipality.

The case was initiated on the basis of applications by Varakļāni Municipality Council, Garkalne Municipality Council and Inčukalns Municipality Council. The application of Varakļāni Municipality Council states that the legislator had failed to properly assess the possibility to include Murmastiene municipality, Varakļāni municipality and Varakļāni town into Madona municipality or to keep it as an independent municipality. The application of Garkalne Municipality Council states that the possibility of keeping Garkalne Municipality as an independent municipality or amalgamating it with Ādaži municipality or Inčukalns municipality had not been properly assessed. Meanwhile the application of the Inčukalns Municipality Council points out that the legislator had unjustifiably divided the administrative territory of Inčukalns municipality by including the town of Vangaži in Ropaži municipality, and the Inčukalns municipality – in the Sigulda municipality. This violated several provisions of the Constitution and the European Charter of Local Self-Government.

First, the Constitutional Court noted that the contested provisions did not provide for reallocation of functions between a local government and the central authority and, consequently, do not interfere with the principle of subsidiarity. Therefore, the proceedings in the part concerning the compliance of the contested provisions with Article 4(3) of the European Charter of Local Self-Government were dismissed.

Second, the Constitutional Court held that the residents and councils of Varakļāni municipality, Garkalne municipality and Inčukalns municipality had the opportunity to prepare their opinion on the planned solution of the administrative-territorial division, as well as to submit proposals and objections to the responsible State institutions within a reasonable period of time. The proposals and objections submitted by the local governments had been evaluated as part of the consultation process.

Third, the Constitutional Court concluded that the legislator had not complied with the objective and criteria of the reform, as it had included Varakļāni municipality in the newly established Rēzekne municipality, which did not have a development centre of regional or national significance defined in the national development planning documents. Moreover,

the decision to include Varakļāni municipality in the newly established Rēzekne municipality was adopted only in the third Parliament session reading of the draft law and was based on the conviction of the deputies about the cultural and historical belonging of the said territory to Latgale. While an administrative-territorial reform can also be organised by taking into account the geographical and cultural aspects of municipalities, these must be defined as clear criteria that apply equally to each municipality. In the present case, the legislator had determined that the administrative-territorial reform was not subordinate to the requirement to preserve the cultural-historical environment and the belonging to the historical Latvian lands. This means that the legislator relied on considerations that could not be recognised as criteria for the implementation of the reform and failed to maintain an approach that applies equally to all newly created municipalities. The legislator has thus acted arbitrarily.

In addition, the Court noted that the sense of belonging and common identity of the residents of a municipality can play an important role in the implementation of the reform. When deciding whether to amalgamate a municipality with another municipality, its specific circumstances may be taken into account, including the fact that the residents of the municipality feel a sense of belonging to a particular municipality. The results of a survey of the residents of Varakļāni municipality confirmed the support of the municipality's residents for the incorporation of its territory in the newly established Madona municipality. Therefore, the incorporation of this municipality in the newly created Rēzekne municipality would not be justified by the sense of belonging and common identity of the inhabitants of Varakļāni municipality.

Fourth, the Constitutional Court recognised that the retention of Garkalne municipality as a separate administrative territory would be incompatible with the general objectives of the reform and the criteria for the establishment of municipalities – including the fact that the Pierīga municipality had not less than 15,000 permanent residents. However, the decision on whether to include Garkalne municipality in Ropaži municipality or Ādaži municipality – if the criteria underlying the reform are respected in both cases, and there is no opinion of a significant portion of the population on one or the other administrative-territorial division solution – depends on a political decision, which is not subject to review by the Constitutional Court.

Fifth, the Constitutional Court concluded that the decision on reforming the Inčukalns municipality by including Inčukalns municipality in Sigulda municipality and the town of Vangaži in Ropaži municipality was in line with the objectives of the reform and the criteria underlying thereof. The different course of historical development of Inčukalns municipality and the town of Vangaži, as well as structure of the population and its employment, and also the commuting of the town of Vangaži towards Riga and the proposals received were indicated as the factors supporting this decision. However, maintaining Inčukalns municipality as a separate administrative territory would not be in line with the overall objectives of the reform and criteria for the establishment of municipalities. In particular, Inčukalns municipality does not have a development centre of regional or national importance, and as a potential Pierīga municipality it does not have a direct border with Riga, its population does not meet the selected criteria, and the projections do not indicate sufficient population growth in the coming years.

Taking into account the above, the Constitutional Court recognised the provisions of 31.15, 31.29 and 31.30 of the Annex 'Administrative Territories, Their Administrative Centres and Territorial Units' to the Law on Administrative Territories and Populated Areas as compliant with Article 4(6) and Article 5 of the European Charter of Local Self-Government, but non-compliant with Articles 1 and 101 of the Constitution. Sub-paragraphs 32.1, 32.4 and 36.2 of the said Annex, in turn, were declared to be compatible with both Articles 1 and 101 of the Constitution, as well as with Article 4(6) and Article 5 of the European Charter of Local Self-Government.

In a democratic state governed by the rule of law, the principle of the rule of law requires the legislator to apply the criteria underlying an administrative-territorial reform equally to all municipalities and, in turn, to provide rational justification for any exceptions made therefrom.

2.7. DECISIONS TO TERMINATE COURT PROCEEDINGS

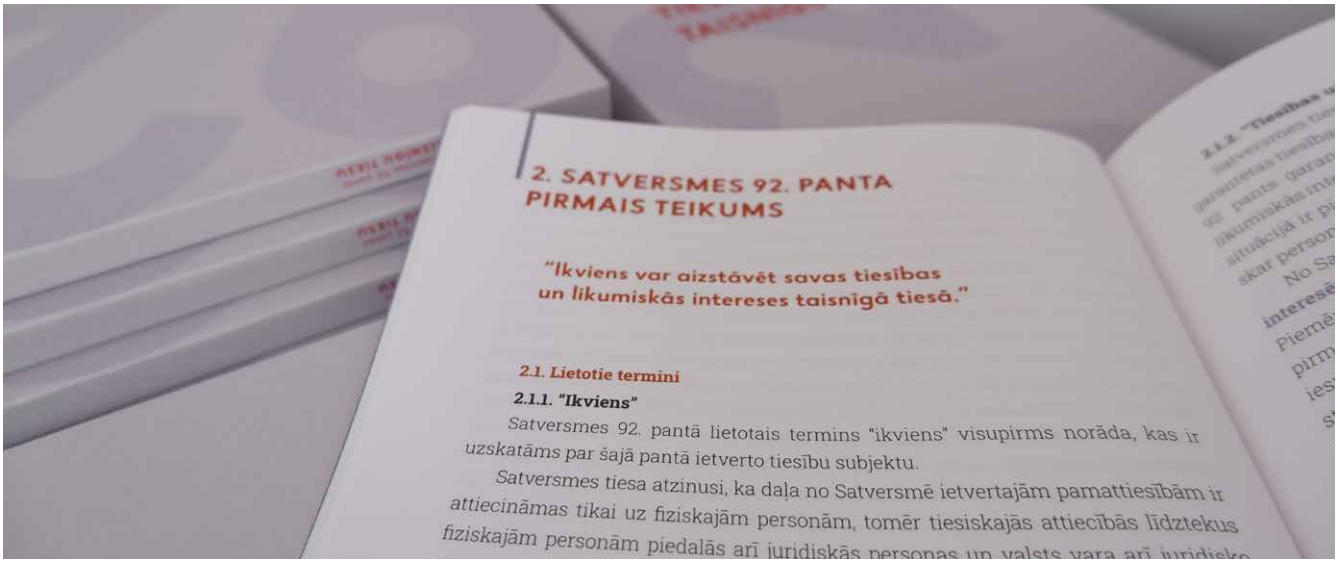
In 2021, the Constitutional Court adopted seven[48] decisions on termination of court proceedings: in Case No 2020-08-01, Case No 2020-19-0103, Case No 2020-52-01, Case No 2020-62-01, Case No 2020-63-01, Case No 2020-66-03 and Case No 2021-11-01. The decision to terminate court proceedings in Case No 2020-62-01 was taken at an assignments hearing, and in the other cases – at the court hearing.

In Case No 2020-19-0103, the decision to terminate court proceedings was adopted on the basis of Para 2 of Section 29(1) of the Constitutional Court Law as the contested provisions had become void.

In Case No 2020-62-01, the decision to terminate court proceedings was adopted on the basis of Para 5 of Section 29(1) of the Constitutional Court Law, as the claim of the applicant had already been adjudicated in the judgment in Case No 2020-26-0106.

In Case No 2020-08-01, the decision to terminate court proceedings was adopted on the basis of Para 6 of Section 29(1) of the Constitutional Court Law, as the arguments of the applicant on the infringement of her fundamental rights and the possible incompatibility of the contested provision with the first sentence of Article 92 of the Constitution in essence did not relate to the contested provision *per se*, but rather to its interpretation and application in the particular civil case. One of the observations, which may be regarded as a development of the case-law of the Court, is that the concept of "lawful interest" contained in the said Article does not mean an abstract interest of a person to obtain clarification of a legal question or to ascertain facts of interest to them.

In Case No 2020-52-01, the decision to terminate the proceedings was adopted on the basis of Para 3 of Section 29(1) of the Constitutional Court Law, as the applicants had not complied with the time limit for filing a constitutional complaint established in Section 19.^{2}(4) of that Law. The case-law of the Court has been supplemented with findings on what evidence may confirm the transmission of an application to the Constitutional Court by electronic mail.



48 For example, in 2020, decisions to terminate court proceedings were adopted in four cases, while in 2019, only three decisions to terminate court proceedings were taken.

In Case No 2020-63-01, the decision to terminate the court proceedings was adopted on the basis of Para 6 of Section 29(1) of the Constitutional Court Law, because the contested provisions do not provide for expropriation of immovable property for public needs and thus do not constitute a violation of the fundamental rights included in the fourth sentence of Article 105 of the Constitution.

In Case No 2020-66-03, the decision to terminate court proceedings was adopted on the basis of Para 6 of Section 29(1) of the Constitutional Court Law, because the contested provision does not infringe the fundamental rights of a person included in the Constitution in the aspect indicated by the applicant.

In Case No 2021-11-01, the decision to terminate the proceedings was adopted on the basis of Para 6 of Section 29(1) of the Constitutional Court Law, since during the examination of the case, the applicant no longer suffered an infringement of the fundamental rights enshrined in the Constitution. The Constitutional Court emphasised that the court proceedings initiated following a constitutional complaint ensured not only the possibility for a person to defend their infringed fundamental rights, but also compliance with the Constitution as a whole. The need to ensure respect for the Constitution must be seen in close connection with the primary objective of this application, which is to prevent an infringement of the fundamental rights of a person.

Case No 2020-08-01
On the case [in English]
Decision to terminate court proceedings [in Latvian]
Press release [in English]

On 30 December 2020, 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 Constitution of the Republic of Latvia". The case was initiated on the basis of a constitutional complaint. This complaint indicated that Section 1(1) of the Civil Procedure Law does not comply with the first sentence of Article 92 of the Constitution, as it denies a person access to the court, which is necessary for the protection of their lawful interests. Namely, the contested provision denies a person the right to apply to a court with a claim concerning the existence or non-existence of a legal relationship, as well as the content thereof.

In its reply, the Parliament requested the Constitutional Court to terminate court proceedings in the case under examination, as the contested provision did not deny a person the right to apply to court with a claim of this nature.

In deciding on the above-mentioned request, the Constitutional Court examined whether the rights of the applicant falling within the scope of the first sentence of Article 92 of the Constitution had been infringed in the given case. The Court noted that the first sentence of Article 92 of the Constitution did not guarantee a person the right to have any matter of importance to them decided by a court. However, the State must ensure effective protection for anyone whose rights or lawful interests are infringed. The first sentence of Article 92 of the Constitution includes the fundamental right of a person to the protection of their rights in a fair court. For the purposes of this provision, the term 'right' means the subjective rights of a person arising from legal provisions. The first sentence of Article 92 of the Constitution also includes the fundamental right of a person to the protection of their lawful interests in a fair court. The concept 'lawful interest' does not mean an abstract interest of a person to obtain clarification of a legal question or to ascertain facts of interest to them.

A lawful interest of a person, the protection of which is required by the first sentence of Article 92 of the Constitution, is only such an interest of a person which is inextricably linked to the subjective rights of the

person concerned. In particular, the concept of 'lawful interest' means the interest of a person in obtaining binding confirmation of the existence or non-existence of certain legal relations, as well as of the content thereof, where the subjective rights or legal obligations of that person depend directly on such confirmation. And the protection of a person's lawful interests can be ensured by binding confirmation of the existence or non-existence of certain legal relationships, as well as of the content thereof.

In a case where the rights of a person had not yet been infringed, in accordance with the first sentence of Article 92 of the Constitution, a person had the right to defend their lawful interests by applying to a court with a claim to provide binding confirmation of the existence or non-existence of certain legal relations affecting the legal position of the person, as well as of the content thereof. However, if the rights of a person have already been infringed, they are entitled to defend their rights and lawful interests by resorting to other legal remedies available to them.

In order to establish whether in the case under examination the fundamental rights of a person falling within the scope of the first sentence of Article 92 of the Constitution had been infringed, the Constitutional Court examined the factual and legal circumstances of the case. The Court concluded that in the respective factual and legal circumstances, *inter alia*, taking into account the regulation of the rights of a creditor as determined by the Law on Extrajudicial Recovery of Debt, the person had a lawful interest in ascertaining their legal position. Accordingly, the first sentence of Article 92 of the Constitution requires that the person is guaranteed access to a court in such circumstances. The Constitutional Court established that, in the case under review, the applicant, *inter alia*, on the basis of the contested provision, was denied the possibility to defend their lawful interest before the court and was not provided with other means which they could use to defend their lawful interest. Thus, the fundamental rights included in the first sentence of Article 92 of the Constitution have been infringed for the applicant.

The Constitutional Court concluded that the contested provision was a reflection of the first sentence of Article 92 of the Constitution, which only specified the content of this Constitutional norm in civil proceedings. However, taking into account the purpose and true meaning of the contested provision, the infringement of the fundamental rights of the applicant enshrined in the first sentence of Article 92 of the Constitution in the given case had been caused not by the contested provision itself, but by the interpretation and application thereof by the court of general jurisdiction. Hence, the Constitutional Court concluded that it was not possible to continue court proceedings in the case under review and to assess compliance of the contested provision with the first sentence of Article 92 of the Constitution.

Case No 2020-19-0103
On the case [in English]
Decision to terminate court proceedings [in Latvian]
Press release [in English]
A Justice's video commentary [in Latvian]

On 10 February 2021, the Constitutional Court adopted a decision to terminate court proceedings in Case No 2020-19-0103 "On Compliance of Para 2 of Section 16(1) and Section 16(2) of the law On State Pensions, as well as of Sub-paragraphs 2.2 and 2.3 of the Cabinet Regulation No 1605 of 22 December 2009 "Regulations Regarding the Amount of the State Social Security Benefit and Funeral Benefit, Procedures for the Review thereof and Procedures for the Granting and Disbursement of the Benefits" with Article 1, the second sentence of Article 91 and Article 109 of the Constitution of the Republic of Latvia".

The case was initiated on the basis of an application submitted by the Ombudsman. It was requested to declare that the amount of the minimum disability pension established in the contested provisions is not sufficient to meet the basic needs of persons with disabilities. It is said that the contested provision is therefore incompatible with the principles of human dignity and a socially responsible state.

The provisions contested in Case No 2020-19-0103 regulated the minimum amount of the State pension for persons with disabilities and persons with disabilities since childhood. The Constitutional Court had already assessed the constitutionality of the amount of the social security benefit in its judgement in Case No 2019-24-03.

At the time of examination of Case No 2020-19-0103, the contested Para 2 of Section 16(1) of the law On State Pensions had become void because the legislator had amended the said provision. The legislator had also changed the procedure for calculating the minimum disability pension by amending the law On State Pensions. From 1 January 2021, it is no longer linked to the state social security benefit. The new wording of the law sets the basic level of the minimum disability pension as a specific amount calculated on the basis of the relative method. In addition, the amount of the minimum disability pension will be reviewed periodically from 1 January 2021. The contested provisions of the Cabinet Regulation No 1605 of 22 December 2009 "Regulations Regarding the Amount of the State Social Security Benefit and Funeral Benefit, Procedures for the Review thereof and Procedures for the Granting and Disbursement of the Benefits" had also already become void.

The Constitutional Court established that the amount of the minimum disability pension established by the legal provisions currently in force, compared to the amount established by the contested provisions, had been substantially increased. Taking into account the above, the Court concluded that the content of the

contested provisions had changed in substance. The Court also found that there were no circumstances in the present case that required the proceedings to be continued.

Case No 2020-52-01
On the case [in English]
Decision to terminate court proceedings [in Latvian]
Press release [in English]

On 28 May 2021, the Constitutional Court adopted a decision to terminate court proceedings in Case No 2020-52-01 "On Compliance of the Words "or Another Aid to the Activity for the Generation of Electricity" of Para 3.[1] of Section 1(2), Section 30.[4](1) and (2), Second Sentence of Section 31.[4](1), and Para 83 of the Transitional Provisions of the Electricity Market Law with Article 1 and the First Sentence of Article 105 of the Constitution of the Republic of Latvia".

The provisions contested in the case regulated the implementation of the mandatory procurement of electricity – the duration and the concept of aid, as well as the calculation of overcompensation.

The case merged two constitutional complaints. It is indicated therein that by adopting the contested provisions, the legislator, *inter alia*, had specified the concept of aid period, including also the aid received by electricity producers before they acquired the right to sell the generated electricity under the mandatory procurement. Therefore, the applicants will have their State aid under the mandatory procurement scheme terminated sooner than they had planned. However, the changes to the overcompensation regulation provide that other aid to the generation of electricity, including historical aid, is also taken into account in the calculation of the internal rate of return on the total capital investment of a power plant. The new calculation would affect the price differentiation coefficient applicable to applicants to avoid overcompensation and reduce the amount of State aid.

First of all, the Constitutional Court examined whether the contested provisions caused infringement of the right to property of the applicant enshrined in Article 105 of the Constitution. The Court concluded that these merchants had been granted the right to sell the electricity generated within the framework of mandatory procurement by administrative enactments and that this right fell within the scope of the first sentence of Article 105 of the Constitution. The contested provisions, on the other hand, increased the total amount of aid already received by the applicants, as they require them to take into account the aid they had received before the entry into force of the Electricity Market Law. These provisions also affect the price differentiation factor applied to merchants to avoid overcompensation. Consequently, the contested provisions reduce the amount of State aid and cause infringement of the applicants' right to property as enshrined in the first sentence of Article 105 of the Constitution.

Further, the Constitutional Court indicated that in the course of examination of the case, in order to decide whether there were grounds to continue the proceedings, it should also ascertain whether the applications complied with other requirements of Sections 18 and 19.[2] of the Constitutional Court Law, including whether the applicants had complied with the time limit for submitting a constitutional complaint to the Constitutional Court.

With regard to the time limit for submitting a constitutional complaint, it should be noted that the time limit established by the Constitutional Court Law is a rule that constitutes the content of a constitutional complaint, non-compliance with which precludes access to the Constitutional Court. Upon expiry of the time limit established by the Constitutional Court Law, the right of a person to submit a constitutional complaint to the Constitutional Court ceases to exist. Therefore, if the Court finds that the applicant has not complied with the time-limit for lodging a constitutional complaint with the Constitutional Court as established by the law, the proceedings in the case must be terminated.

Section 19.[2](4) of the Constitutional Court Law exhaustively establishes which moment is considered to be the beginning of the term for submission of a constitutional complaint – it is the day when the decision of the last authority has come into effect, if the person has the possibility to defend the fundamental rights stipulated in the Constitution using general remedies for protection of rights, or the moment when the fundamental rights were infringed, if the person does not have such a possibility.

As regards the calculation of the time limit, the provisions of the Civil Procedure Law apply. This means that if the application is sent to the Constitutional Court by electronic mail on the last day of the time-limit before 24:00, the time-limit established in Section 19.[2](4) of the Constitutional Court Law has been complied with. That is, the decisive moment is when the electronic document is sent to the court, not when the court has received it in its e-mail address.

The Constitutional Court emphasised that only such evidence which could be objectively verified, for example, the time of sending the document indicated in the printout from the e-mail address of the applicant, could serve as evidence that the document in question had actually been sent on the according date. If the Constitutional Court, in its assessment of compliance with the time-limit for filing a constitutional complaint, relied solely on the applicant's allegations regarding the time when the document was sent, it would act contrary to the requirement of predictability and certainty derived from the principle of legal certainty. The date and time of affixing the time stamp on the electronic document only confirms that the document was signed at the time indicated therein. Therefore, a time stamp on an electronic document is not in itself proof of the time the document was sent.

Having assessed the factual circumstances of the case, the Constitutional Court concluded that the applicants had not complied with the time-limit for filing a constitutional complaint established in Section 19.^{2}(4) of the Constitutional Court Law. Consequently, pursuant to Para 3 of Section 29(1) of the Law, the proceedings in the case were terminated.

Case No 2020-62-01
On the case [in English]
Decision to terminate court proceedings [in Latvian]
Press release [in English]

On 26 January 2021, the Constitutional Court adopted a decision on termination of court proceedings in Case No 2020-62-01 "On Compliance of Section 9 of the law On Measures for the Prevention and Suppression of Threat to the State and Its Consequences Due to the Spread of Covid-19 with Article 1 and the first sentence of Article 105 of the Constitution of the Republic of Latvia".

Case No 2020-62-01 was initiated on the basis of a constitutional complaint. The contested provision laid down restrictions on both on-site and interactive gambling. The applicant, a gambling organiser, considered that this provision, insofar as it established the obligation of the Lotteries and Gambling Supervision Inspection to suspend licences for the organisation of gambling in the interactive environment and/or through electronic communication services, disproportionately restricts its right to property established by the Constitution.

The Constitutional Court noted that on 11 December 2020, a judgment was adopted in Case No 2020-26-0106. In this judgment, Article 9 of the law On Measures for the Prevention and Suppression of Threat to the State and Its Consequences Due to the Spread of Covid-19, insofar as it provided for the obligation of the Lotteries and Gambling Supervision Inspection to suspend licences for the organisation of gambling in the interactive environment and/or through electronic communication services, was declared not compliant with Article 1 in conjunction with the first and third sentences of Article 105 of the Constitution. The claim on which the judgment in Case No 2020-26-0106 was delivered coincides with the claim contained in the application which gave rise to Case No 2020-62-01. The application does not allege any facts or arguments that have not already been examined on their merits in Case No 2020-26-0106. The subject-matter of the claim in Case No 2020-62-01 is therefore identical to that already adjudicated in Case No 2020-26-0106. Moreover, in the judgment in Case No 2020-26-0106, the Court had ruled that the contested provision in respect of organisers of interactive gambling should be recognised as null and void from the moment of the infringement of their fundamental rights, thus deciding on the validity of the contested provision also in respect of the applicant in Case No 2020-62-01.

Consequently, in its decision of the hearing, the Constitutional Court recognised that the precondition provided for in Para 5 of Section 29(1) of the Constitutional Court Law for termination of court proceedings was present in the case.

Case No 2020-63-01
On the case [in English]
Decision to terminate court proceedings [in Latvian]
Press release [in English]
A Justice's video commentary [in Latvian]

On 15 October 2021, the Constitutional Court adopted a decision on termination of court proceedings in Case No 2020-63-01 "On Compliance of Paragraphs 34, 53 and 56 of Part 1 of Annex I (to Section 1102) 'List of Public Lakes and Rivers' to the Civil Law with Articles 1 and 105 of the Constitution of the Republic of Latvia". The case merged Case No 2020-63-01, Case No 2021-02-01 and Case No 2021-04-01, all of which were initiated upon applications of the Latgale Regional Court.

The case contested several provisions of Part 1 of Annex I (to Article 1102) 'List of Public Lakes and Rivers' to the Civil Code, which include several lakes in the List of Public Lakes (hereinafter – List of Public Lakes).

The applicant pointed out that after the inclusion of the lake in the list of Public Lakes, the ownership of the lake belongs solely to the State. However, by adopting these norms, the legislator has failed to implement a procedure for expropriation of immovable property that complies with the Constitution. The applicant also considered that the legal expectations of persons had been unjustifiably infringed, since the property rights to the lakes in question had already been registered in the Land Register. The Parliament, in turn, indicated that the contested provisions do not provide for expropriation of immovable property for public needs and, therefore, do not cause infringement of the fundamental rights of persons enshrined in the Constitution. Consequently, the Constitutional Court first of all assessed whether there were grounds to terminate the proceedings in the case.

The Constitutional Court concluded that the List of Public Lakes included lakes of great national significance and which are necessary for society as a whole, taking into account their purpose and type of use. For example, these lakes are important for national defence, biodiversity and fisheries, and for drinking water or recreation. However, the contested provisions established the status of public waters for these lakes because they are needed for the protection of the state border, i.e. these bodies of water are crossed by or pass along the state border. The Court also concluded that, when adopting the Law of 14 May 1998 on Amendments to the Civil Law, the legislator was aware that the land under a lake included in the list of Public Lakes could belong to private individuals whose property rights were registered in the Land Register, and that the legislator did not intend to expropriate such land.

The Constitutional Court recognised that the Civil Law provides for two forms of ownership in relation to public waters: State property and private property. A public lake can therefore be owned both by a private individual and the State. The legislator, in turn, must respect the property rights of private individual that have been registered in the Land Register, as such rights enjoy legal protection and are subject to the principle of public credibility.

The inclusion of a lake in the list is not in itself a reason to change an already acquired property right entry in the Land Register. At the same time, the legal circumstances under which these property rights over land under public lakes were acquired are relevant, i.e. whether the individual acquired these property rights before or after the inclusion of a lake in the List of Public Lakes. Unless, according to the principle of public credibility, the ownership of the land under a lake has already been registered in the Land Register, once the lake is included in the list of Public Lakes, it becomes the property of the State.

When a lake is listed as a Public Lake, it is given the status of a public object. This points to the need and importance of the lake for society as a whole. To safeguard the interests of the State, a coherent system of laws and regulations has been established, which determines the use of public waters as a resource, as well as the procedure for the State to acquire ownership of land under public waters. The Land Management Law stipulates that if a private individual has land under public waters in his or her ownership and it is being sold, then the State shall have the pre-emptive right to the land to be alienated. The procedure for the State to acquire these property rights is specified in the Cabinet Regulations.

The Constitutional Court recognised that the contested provisions did not provide for expropriation of immovable property for public needs and thus did not constitute an infringement of the fundamental rights enshrined in the fourth sentence of Article 105 of the Constitution. Hence, in accordance with Para 6 of Section 29(1) of the Constitutional Court Law, the proceedings in the case were terminated.

Case No 2020-66-03
On the case [in English]
Decision to terminate court proceedings [in Latvian]
Press release [in English]

On 28 October 2021, the Constitutional Court adopted a decision to terminate court proceedings in Case No 2020-66-03 "On Compliance of Annex 1 to Cabinet Regulation No 810 of 13 December 2016 "Regulations on Classification of Positions of Officials with Special

Service Ranks of the Ministry of the Interior System Institutions and the Prison Administration", Insofar as it Provides for the Requirement of a Highest Special Service Rank – Colonel – for a Group 2.1, Level VII Director of a College, With the First Sentence of Article 91 and the First Sentence of Article 106 of the Constitution of the Republic of Latvia".

The case was initiated on the basis of a constitutional complaint. The contested provision of the Cabinet Regulation established that the highest special service rank of the director of a college of the Ministry of the Interior system was colonel.

The applicant held that the contested provision provides for the position of the director of a college of the Ministry of the Interior System as a post of an official with a special service rank and thus unjustifiably restricts the right of a person to freely choose employment and workplace in accordance with their abilities and qualifications, enshrined in the first sentence of Article 106 of the Constitution. However, the principle of legal equality enshrined in the first sentence of Article 91 of the Constitution is said to have been infringed, since no such restriction had been imposed in respect of other, in the view of the applicant, comparable positions. However, the Cabinet of Ministers held that the contested provision complied with the Constitution and, *inter alia*, pointed out that the position of the director of a college was essentially established as a position of an official with a special service rank by the provisions of the Law On the Career Course of Service of Officials with Special Service Ranks Working in Institutions of the System of the Ministry of the Interior and the Prisons Administration (hereinafter – Law On the Career Course of Service).

The Constitutional Court held that the first sentence of Article 106 of the Constitution protected the right of a person to freely choose and maintain employment and also covered employment in the public service. In turn, in order to establish whether the contested provision provides for the position of the director of a college of the Ministry of the Interior System as a position of an official with a special service rank and thus infringes the fundamental rights of a person as enshrined in the first sentence of Article 106 of the Constitution in the aspect indicated by the applicant, it is necessary to establish the content of this provision, *inter alia*, by interpreting it in conjunction with the systemically related provisions of the Law on Remuneration of Officials and Employees of State and Local Government Authorities (hereinafter – Law on Remuneration) and the Law On the Career Course of Service.

Having examined the content of the provisions of the Law on Remuneration and the Law On the Career Course of Service, the Court concluded that the legislator had not provided a definition of an official with a special service rank in the Law on the Career

Course of Service, nor had it established the criteria for determining whether a particular position in an institution of the system of the Ministry of the Interior or in the Prisons Administration should be considered a position of an official with a special service rank. However, the Law On the Career Course of Service lays down a special legal regulation on the appointment and the course of service of the head of an institution of the system of the Ministry of the Interior, including a college of this system, and of the Prisons Administration.

In Section 9(2) and (3) of the Law on the Career Course of Service, the legislator has expressly provided for the appointment of a candidate to the above-mentioned positions. When these provisions are read in conjunction with Sections 1 and 2 of the Law On the Career Course of Service, the decision of the legislator that these positions are positions of officials with special service ranks can be deduced. Thus, the position of the head of a college of the Ministry of the Interior System – the director – is determined as a position of an official with a special service rank by Section 9(3) of the Law On the Career Course of Service in conjunction with Sections 1 and 2 of that Law, and not by the contested provision, which in this respect merely reflects the legislator's decision on the nature of that position, already contained in the provisions of the law. Even if the contested provision were not valid, the position of the head of the college of the Ministry of the Interior System would, in accordance with the aforementioned norms of the Law On the Career Course of Service, be a position of an official with a special service rank.

Thus, the Constitutional Court concluded that the contested provision did not infringe the fundamental rights of a person enshrined in the first sentence of Article 106 of the Constitution in the aspect indicated by the applicant, and did not entail infringement of the fundamental rights of a person enshrined in the first sentence of Article 91 of the Constitution. Hence, it was not possible to continue the proceedings on the constitutionality of the contested provision.

The Constitutional Court also examined whether it was possible and necessary to extend the limits of the claim in the given case. It noted that according to Paras 1-3 of Section 20(9) of the Constitutional Court Law, if a case has been initiated following an application submitted to the court, the court shall send a true copy of the decision to initiate the case and of the application to the participant to the case – the authority or official who has issued the contested act, as well as invite the relevant authority to submit a written answer with a brief description of the actual circumstances of the case and the legal grounds thereof. These provisions of the Law contain the principle that in the Constitutional Court proceedings, the authority or official which issued the contested act must participate as a party to the case.

However, the legal grounds provided in the application are based on the opinion of the applicant that the infringement of the fundamental right enshrined in the first sentence of Article 106 of the Constitution is caused in the given circumstances by the contested provision, which has been adopted by the Cabinet of Ministers. Therefore, in the present case, the Cabinet of Ministers was recognised as the authority that had issued the contested act and was invited to submit a written answer. The applicant has not attributed the infringement of their fundamental rights to the provisions of the Law On the Career Course of Service, from which it follows that the position of the head of a college of the Ministry of the Interior System is a position of an official with a special service rank, has not contested the constitutionality of those provisions and, consequently, has not provided legal substantiation of the unconstitutionality of those provisions. The Parliament, the institution that adopted the Law On the Career Course of Service, is not a party to the present case and has not expressed an opinion on the constitutionality of the provisions of the Law. Consequently, it is not possible to extend the limits of the claim and to continue the proceedings in the present case. Therefore, in accordance with Para 6 of Section 29(1) of the Constitutional Court Law, the proceedings in the present case were terminated.

Case No 2021-11-01
On the case [in English]
Decision to terminate court proceedings [in Latvian]
Press release [in English]

On 10 December 2021, the Constitutional Court adopted a decision to terminate legal proceedings in Case No 2021-11-01 "On Compliance of Section 10(2) and Para 1 of Section 15(1) of the Military Service Law with the First Sentence of Article 91 and Article 102 of the Constitution of the Republic of Latvia".

The case was initiated on the basis of a constitutional complaint. It indicated that Section 10(2) and Para 1 of Section 15(1) of the Military Service Law were not compliant with the first sentence of Article 91 and Article 102 of the Constitution, because the contested provisions disproportionately restricted the right to freedom of association included in Article 102 of the Constitution. In particular, they prevent the person from both performing the duties of a soldier and from being a member of a political party. The contested provisions also allegedly violate the principle of legal equality. The Parliament, in its turn, pointed out that the restriction of fundamental rights contained in the contested provisions ensures that professional military service does not become an instrument at the disposal of political parties. If soldiers were involved in politics, the military would be merged with politics and this could hamper effective civilian control of the National Armed Forces.

During the preparation of the case, The Constitutional Court obtained information that the applicant had been discharged from professional military service by order of the Commander of the National Armed Forces

after the initiation of the case and that his professional service contract was terminated early. The termination of the professional military service relationship was initiated by the applicant, as they wished to establish an employment relationship with the Ministry of Justice. The Constitutional Court held that these circumstances may indicate that the infringement of the fundamental rights of the applicant no longer exists.

The Constitutional Court noted that the proceedings which have been initiated on the basis of a constitutional complaint of a person must be aimed at the protection of fundamental rights – they cannot be used solely to resolve an abstract issue of law. The infringement of a person's subjective rights arising from fundamental rights is an essential element of a constitutional complaint, which directly emphasises the primary aim of a constitutional complaint – to avert the infringement of the fundamental rights of a person.

The status of a soldier is a legal status which a person acquires through active service after the conclusion of a professional service contract. By acquiring the status of a soldier, a person comes within the scope of the legal provisions related to the performance of service in the National Armed Forces. Military service is fundamentally different from any form of civilian employment. The special nature of this service imposes duties and responsibilities on the soldier that may constrain them more than other persons.

The restriction established in the contested provision, which prohibits the establishment of a political party and being a member thereof, was no longer applicable to the applicant at the time of the examination of the case and did not entail any adverse consequences for him. The Applicant also had not put forward any arguments, and no considerations could be established from the case-file, which would indicate the need to assess the constitutionality of the contested provisions according to the circumstances which were present at the time when the case was initiated.

The Constitutional Court also assessed the circumstance that the applicant had applied to the National Armed Forces for his re-admission to professional military service. The Court held that the contested norms did not affect the right of the applicant to seek admission to military service. Likewise, no circumstances could be established which would indicate that the applicant had been admitted to military service and re-acquired the status of a soldier.

In the light of the foregoing, the Constitutional Court concluded the fundamental rights of the applicant, enshrined in the first sentence of Article 91 and Article 102 of the Constitution, had not been infringed. Therefore, in accordance with Para 6 of Section 29(1) of the Constitutional Court Law, the proceedings in the present case were terminated.

2.8. DECISIONS BY THE PANELS

During the period between 9 December 2020 and 31 December 2021, 301 applications to initiate a case were submitted to the Panels of the Constitutional Court.

As usual, constitutional complaints account for the largest share of applications. In 2021, more than 260 constitutional complaints were lodged with the Constitutional Court, which accounted for approximately 90% of all applications received by the Court. About 80% of the constitutional complaints were submitted by natural persons, and about 20% by legal persons governed by private law (limited liability companies, joint-stock companies, associations and foreign merchants). The proportion of constitutional complaints in relation to the total number of applications in 2021 has increased slightly, as, for example in 2020, the proportion of constitutional complaints in relation to the total number of applications was around 75%.

As in previous years, the second most active applicant is the courts of general jurisdiction and administrative courts. In 2021, they submitted 30 applications.[49] Most of them covered the legal issues decided in Case No 2021-03-03 on infringements of the regulations on the use of natural gas After a longer interruption, in 2021, the Constitutional Court received an application from a court of general jurisdiction which was hearing a criminal case.

The trend observed in previous years that a number of constitutional organs – the applicants referred to in Paras 1–12 of Section 17 of the Constitutional Court Law, namely, the President of Latvia, the Parliament and the Cabinet of Ministers – do not submit applications to the Constitutional Court, continued in 2021 as well. Similarly, in 2021, no applications were received from the Council of the State Audit Office, the Judicial Council, the Prosecutor General, the judge of the Land Registry Office when they registered immovable property or the rights related thereto in the Land Register, or from a municipality council concerning the compliance with the law of an order by which a minister authorised by the Cabinet of Ministers suspended a decision taken by it.

One application was made under state-funded legal aid under the State Ensured Legal Aid Law. This application led to the initiation of case No 2021-43-01.

The applications submitted covered almost all the fundamental rights enshrined in Chapter 8 of the Constitution. Only Article 114 of the Constitution – the right of persons belonging to a national minority to preserve and develop their own language – was not indicated in any application as a provision of higher legal force against which the compatibility of the contested provision should be assessed.

According to Section 20(7) of the Constitutional Court Law, the decision regarding initiation of a case or refusal to initiate a case must be taken within one month from the day when the application was submitted. In complicated cases the Court may extend this period of time for up to two months. In 2021, the Panels adopted 11 decisions[50] to extend the time limit for the examination of an application. Of these applications, 10 were made by private individuals and one by a court of general jurisdiction. After an in-depth assessment and receipt of additional information, a decision was taken on refusal to initiate a case.[51]

Section 20(7.[1]) of the Constitutional Court Law provides: if the panel takes the decision to refuse to initiate a case and a justice – a member of the panel – votes against such a ruling by the panel, moreover, he or she has reasoned objections, the examination of the application and the taking of the decision shall be transferred to the assignments sitting with the full composition of the Court. In 2021, seven applications

49 For example, in the 2020 reporting period, the courts of general jurisdiction and administrative courts submitted 37 applications.

50 For example, in 2020, the Panels of the Constitutional Court adopted nine decisions on extending the time limit for examining an application, while in 2019, three such decisions were taken.

51 Two of the applications for which the deadlines have been extended will be decided in early 2022.

were examined at an assignments hearing.[52] In all these cases, decisions were taken to refuse to initiate case.

In 2021, the Panels examined approximately 50 applications which were submitted repeatedly. The[53] Panels adopted 11 decisions to initiate cases on the basis of these repeatedly submitted applications.[54] Of these applications, 10 were submitted by private individuals and one by a court of general jurisdiction hearing a civil case.

All decisions on initiating cases are available in the section "Cases" of the website of the Constitutional Court under the relevant case.[55] However, those decisions on refusal to initiate a case, which indicate significant aspects of the application of the Constitutional Court Law, are published in the section "Decisions of the Panels on Refusal to Initiate a Case" on the website of the Constitutional Court.[56] These decisions allow for a better understanding of the Constitutional Court Law and facilitate the preparation of an application that complies with the requirements of the Law. More than 60 redacted decisions by[57] the Panels were published during the reporting period.

Decisions to Initiate a Case

The cases initiated by the Court deal with a wide range of legal issues. As usual, most of the cases concern fundamental rights. Cases initiated during the reporting period included: the public-legal status of a lake; the requirement of the highest special service rank for the position of Head of the Fire Safety and Civil Protection College; the right of a person punished for criminal offences related to violence to be a guardian; the procedure for calculating and paying personal income tax for performers of economic activity; additional payment for work on public holidays to an official with a special service rank; the fine for using a section of a public road without paying the road user charge; the requirement to take the Covid-19 test before entering Latvia; the prohibition for a soldier to join a political party; the maximum amount of immovable property tax benefit in Riga; the restriction on commercial activities under Covid-19 conditions in large shopping centres; the maximum amount of legal aid costs to be reimbursed to a person in administrative proceedings; the time limit within which a person must obtain a second-level professional higher education in a construction study programme; the obligation for merchants selling electricity under mandatory procurement to use the thermal energy generated in an efficient manner; the right of imprisoned persons to keep certain objects; the conduct of education in schools remotely after the end of an emergency situation; the payment of value added tax in the event of forced rental; the provision of personal hygiene products to persons placed in a place of temporary detention; the right of a convicted person to be a candidate for election as a judge; the right of an accused person to familiarise with the materials of operational activities; the acquisition of study programmes in the official language at higher education institutions and colleges.

Civil procedure issues were addressed in a case concerning the release of legal persons from a security deposit in civil proceedings.

State and administrative law covered cases on: the amount of compensation in the event of a breach of the regulations on the use of natural gas; the administrative-territorial reform; the procedure for elections to the municipality council for persons who are subject to arrest as the security measure; the prohibition for persons serving a custodial sentence to participate in local government elections; State budget funding for political parties; the right to appeal against decisions of the regional court in cases concerning criminally acquired property.

Finally, the criminal law area included cases on the procedure for confiscation of criminally acquired property, criminal liability for an invitation to destroy the independence of the Republic of Latvia as a State, as well as a case on the time limit for appealing against a judgment of a court of first instance in criminal proceedings.

Similarly to the previous reporting periods, in 2021, the Constitutional Court initiated a relatively large number of cases on compliance of the same legal provisions with norms of higher legal force.[58] Applications to initiate such cases included a claim, a statement of the facts or the legal basis similar to those already initiated before the courts. Therefore, in more than 10 decisions of the Panels to initiate a case, it was stated that, in the interests of procedural economy, it was not necessary to invite the institution which had issued the contested act to submit a written answer setting out the actual circumstances of the case and the legal grounds thereof.

If the application submitted to the Court is recognised as compliant with the Constitutional Court Law, the

52 Applications regarding initiation of a case No 218/2020, No 229/2020, No 235/2020, No 3/2021, No 74/2021, No 88/2021 and No 120/2021.

53 Applications regarding initiation of a case No 240/2020, No 260/2020, No 45/2021, No 64/2021, No 94/2021, No 106/2021, No 119/2021 and No 134/2021.

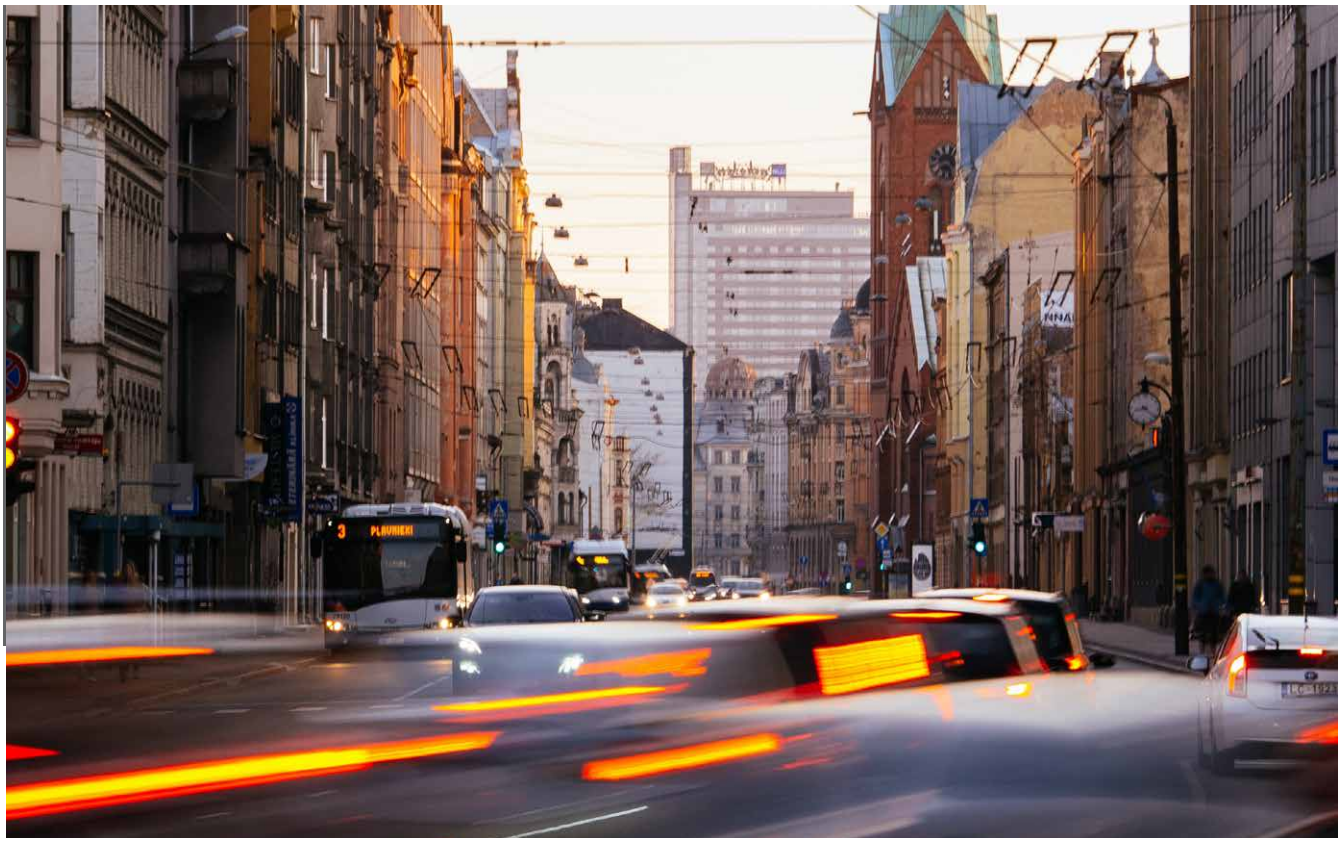
54 Cases No 2020-66-03, No 2021-04-01, No 2021-11-01, No 2021-18-01, No 2021-25-03, No 2021-31-0103, No 2021-32-0103, No 2021-34-01, No 2021-36-01 and No 2021-43-01.

55 https://www.satv.tiesa.gov.lv/cases/

56 https://www.satv.tiesa.gov.lv/decisions/

57 Decisions on applications submitted by private individuals are redacted.

58 Cases No 2020-65-0106, No 2021-01-0106, No 2021-02-01, No 2021-03-03, No 2021-04-01, No 2021-08-03, No 2021-13-03, No 2021-14-03, No 2021-15-03, No 2021-16-03, No 2021-17-03, No 2021-19-01, No 2021-20-03, No 2021-21-03, No 2021-26-03, No 2021-28-03, No 2021-29-03, No 2021-30-03, No 2021-35-03, No 2021-37-03.



Panel of the Constitutional Court initiates a case on the basis thereof. Therefore, the decisions to initiate a case usually do not comprise extensive review of the content or form of the applications. However, in some cases the Panels have ruled on certain requests of the applicants or have provided new findings on the compliance of the application with the requirements of the Constitutional Court Law.

In Application No 247/2020, the applicant, Babīte Municipality, requested, *inter alia*, that representatives of the Congress of Local and Regional Authorities of the Council of Europe be invited to give their opinion, as well as to give a ruling in the case before the local elections which were to be held on 5 June 2021.

With regard to the first request, the Panel noted that according to Para 2 of Section 22(2) of the Constitutional Court Law, the Justice who prepares the case for examination has the right to determine persons to be invited in the case and request that they express their opinion. However, Section 22(3) provides that any person may be recognised as an invited person by the decision of a Justice if hearing this person's opinion may favour comprehensive and objective examination of a case. The question of whether it is necessary to determine the persons to be invited is therefore a matter for the Justice who is preparing the case for hearing.

In deciding on the second request of the Babīte Municipality Council, the Panel recognised that according to Section 22(7) of the Constitutional Court Law, a case should be prepared for examination not later than within five months, while in particularly complicated cases, the said period may be extended no longer than by two months. However, pursuant to Section 22(10), the court decides on the determination of the written procedure, the time and place of a court hearing, as well as other issues that are associated with the examination of a case in a court hearing, at an assignments sitting after the case has been referred for hearing, that is, after the preparation of the case has been completed. Consequently, the Panel held that the two requests were not within its competence and should be without examination.[59]

In application No 123/2021, the applicants also asked the court to give priority to the case. The application contested the Cabinet Regulation on the conduct of education in schools remotely after the end of the emergency situation. The request was based on the principle of prioritising children's rights. However, the Panel held, similarly to its decision on application No 247/2020, in accordance with the Section 22(7) and (10) of the Constitutional Court Law, that this request was not within the competence of the Panel and should be left without examination.[60]

In Applications No 64/2021 and No 68/2021, the applicants requested the Constitutional Court to suspend the execution of the decision of a court of general jurisdiction. This decision of the court of general jurisdiction, *inter alia*, on the basis of Section 70.[11](4) of the Criminal Law and Section 358(1) of the Criminal

59 Decision of the 1st Panel of the Constitutional Court of 22 December 2020 on initiating a case on the basis of application No 247/2020.
60 Decision of the 2nd Panel of the Constitutional Court of 9 July 2021 on initiating a case on the basis of application No 123/2020.

Procedure Law, held that an insolvency administrator is obliged to transfer to the State budget, unrelated to the process of satisfaction of creditors' liabilities, such funds deposited in a credit institution which have been declared proceeds of crime.

The applicants pointed out that if the financial resources have already been transferred to the State of Latvia, it will be possible to recover them according to the Judgment of the Constitutional Court only by bringing an action against the State of Latvia in accordance with the procedure established by the Civil Procedure Law. However, such a right cannot be considered a full-fledged legal remedy. It is also said to be unknown whether, at the time when the Constitutional Court adopts its ruling, one of the applicants – a credit institution subject to liquidation – will still exist and not have already been liquidated, since its administrator may be obliged to complete its insolvency proceedings, and enforcement of the judge's decision may jeopardise the applicant's ability to cover the costs of the its insolvency proceedings.

In deciding on the above requests, the Panel examined: first, whether the applications provided grounds for such a request; second, whether there are such circumstances in the case due to which the execution of the ruling before the entry into force of the ruling of the Constitutional Court could make the execution of the ruling of the Constitutional Court impossible; whether the execution of the ruling could cause significant damage to the applicants, which would interfere with the protection of their fundamental rights within the framework of the cases initiated in the Constitutional Court.

The Panel recognised that considerations as to the effectiveness of bringing an action in the civil procedure could not be recognised as a circumstance due to which the execution of the ruling before the entry into force of the ruling of the Constitutional Court could make the execution of the ruling of the Constitutional Court impossible. The applicants had also failed to substantiate that there are such circumstances in the case due to which the execution of the ruling before the entry into force of the ruling of the Constitutional Court could cause them such significant damage that it would interfere with the protection of fundamental rights within the framework of the case initiated in the Constitutional Court. The Panel therefore rejected the requests for suspension of execution of the decision of the court of general jurisdiction.[61]

In application No 134/2021, the Constitutional Court was requested to suspend the execution of a ruling of a court of general jurisdiction in a criminal case. This application challenged the constitutionality of provisions of the Criminal Law which criminalise an invitation to destroy the independence of the Republic of Latvia as a State. In the application, it was indicated that the execution of the criminal punishment – community service – imposed on the applicant in the criminal case prior to the entry into force of the ruling of the Constitutional Court could cause them substantial damage.

Referring to the case-law of the Constitutional Court, the Panel pointed out that criminal liability was the most serious possible form of legal liability and its consequences could significantly affect the life of a person after serving the criminal sentence. If the contested provisions were declared unconstitutional and invalid in respect of the applicant from the moment of the infringement of his fundamental rights, then serving a criminal sentence until the entry into effect of the ruling of the Constitutional Court could significantly infringe their fundamental rights. The Panel therefore concluded that the request should be granted.[62]

In accordance with the procedure established by the Constitutional Court, at the stage of examination of the application, the Panel also decides on the issue of accessibility of the information contained in the application and the documents attached thereto.

Having examined application No 180/2021 and the documents attached thereto, the Panel noted that they contained information on the criminal record of the applicant. The application also contained information about the criminal record of a third party. This information falls within the scope of the right to inviolability of private life enshrined in Article 96 of the Constitution and, together with personal information, constitutes personal data within the meaning of Article 4(1)of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation). The disclosure of these personal data, in turn, constitutes processing within the meaning of Article 4(2)of this Regulation.

Consequently, the Panel concluded that the disclosure of the data of the applicant and of the third party named in the application would cause such damage to their rights and lawful interests as to outweigh the public benefit. In the given case, the Constitutional Court does not need to disclose personal information of these persons in order to exercise its competence and perform its statutory duties. Therefore, in the decision, the information identifying the applicant should be redacted and the information on their identity and the identity of the third person indicated in the application

61 Decision of the 2nd Panel of the Constitutional Court of 7 May 2021 on initiating a case on the basis of application No 64/2021 and Decision of 8 May 2021 on initiating a case on the basis of application No 68/2021.

62 Decision of the 3rd Panel of the Constitutional Court of 16 August 2021 on initiating a case on the basis of application No 134/2021.

should be subject to restricted access, which will be in effect until the Constitutional Court adopts its final decision.[63]

The Panels did likewise in respect of application No 180/2021 and application No 239/2021. These decisions concluded that the information identifying the applicant should be redacted and that the information on their identity should be determined restricted access status, which will be in effect until the Constitutional Court adopts its final decision.[64]

In application No 32/2021, the applicant requested the Constitutional Court to assess compliance of several provisions of the Cabinet Regulation No 360 of 9 June 2020 "Epidemiological Safety Measures for the Containment of the Spread of Covid-19 Infection" with the norms of the Constitution. The applicant also indicated that the contested provisions do not comply with the principle of legal certainty enshrined in Article 1 of the Constitution, as they are not clear and precise, and their application is not such as could be foreseen by persons. In turn, the Panel held that, when assessing whether a restriction of fundamental rights was justified, the Constitutional Court, *inter alia*, must examine whether it was established by a law adopted in due procedure, i.e., whether the law has been: 1) adopted in accordance with the procedure provided for in laws and regulations; 2) announced and publicly available in accordance with the requirements of laws and regulations; 3) formulated sufficiently clearly to enable a person to understand the content of rights and obligations arising therefrom and to foresee the consequences of the application thereof. Consequently, the fact of whether the contested provisions are sufficiently clear to enable a person to foresee the consequences of the application thereof cannot be distinguished separately and must be assessed within the procedure of examining the compliance of the contested provisions with the second sentence of Article 98 of the Constitution.[65]

In deciding on the initiation of a case on the basis of application No 45/2021, the Panel examined the question of the moment when an infringement of a fundamental right occurs in cases where such infringement is not related to an act of application of a legal provision. The application contested the constitutionality of the provisions of the Military Service Law, which denied a person the right to perform the duties of a soldier and be a member of a political party at the same time. It emerged from the application that, as a result of the prohibition laid down in the contested provisions, the applicant had been forced to resign from a political party in 2015. At the same time, the application also indicated that they had begun to feel the infringement of their fundamental rights right now, when a new political party had been founded and, in connection with various events in the world and in Latvia, they had a civic interest in being a founder and member of that political party and in standing as a candidate in elections. Thus, the applicant had substantiated at which point in time and why they began to perceive the prohibition contained in the contested provisions as an infringement of their fundamental rights. In the light of the foregoing, the Panel held that in the present case, the time-limit for filing the application should be calculated from the moment when the applicant had signed the list of founders of the political party.[66]

During the reporting period of 2021, the Panel also took a decision on a future infringement of fundamental rights. Namely, application No 83/2021 contested the constitutionality of the provisions of the Law on the Election of Local Government Councils, which denied the right to vote in elections of local government councils to a person who was subject to arrest as the security measure. The application to the Constitutional Court was submitted before the local government election scheduled for 5 June 2021, and it mentioned that the fundamental rights of the applicant were expected to be infringed in the future, when the elections of local government councils would be held in Latvia.

The Panel noted that the infringement of the fundamental rights of a person in the meaning of the Constitutional Court Law is to be understood in the sense that the contested provision has caused or is causing adverse consequences for the applicant. The contested provision causes adverse consequences for the applicant even if the legal provision already requires a person to take decisions which cannot be amended at a later date and it can be clearly predicted that the rights of the person will be infringed in the future, as well as the manner in which that infringement will take place. When submitting a constitutional complaint, the applicant must state objectively verifiable facts which characterise the violation of their fundamental rights and allow to establish the time when it occurred. However, the constitutional complaint under review contains the grounds that the contested provisions will be applied to the applicant, and they have provided legal grounds that the contested provisions will deny them the right to vote in the elections of the local government council and restrict the right to participate in the activities of the local government. The application thus provides a basis for the claim that the rights of the applicant will be infringed in the future, as well as the manner in which that infringement will take place.[67]

63 Decision of the 4th Panel of the Constitutional Court of 15 October 2021 on initiating a case on the basis of application No 171/2021.
64 Decision of the 1st Panel of the Constitutional Court of 20 October 2021 on initiating a case on the basis of application No 180/2021 and Decision of the 4th Panel of 8 December 2021 on initiating a case on the basis of application No 239/2021.
65 Decision of the 1st Panel of the Constitutional Court of 24 March 2021 on initiating a case on the basis of application No 32/2021.
66 Decision of the 2nd Panel of the Constitutional Court of 9 April 2021 on initiating a case on the basis of application No 45/2021.
67 Decision of the 1st Panel of the Constitutional Court of 4 June 2021 on initiating a case on the basis of application No 83/2021.

Decisions on Refusal to Initiate a Case

In 2021, the Constitutional Court adopted 252 decisions on refusal to initiate a case. This number of decisions is higher than in previous years.[68] The legal grounds for refusal to initiate a case are laid down in Section 20(5) and (6) of the Constitutional Court Law.

Jurisdiction of the Constitutional Court over the case

Para 1 of Section 20(5) of the Constitutional Court Law provides that the Panel shall be entitled to refuse to initiate a case the case is not under the jurisdiction of the Constitutional Court. In 2021, this rule was applied in more than 60 decisions on refusal to initiate a case. This is the highest number of decisions in which the Panels have recognised that the claim contained in an application does not fall within the jurisdiction of the Constitutional Court.

The competence of the Court is established by the Constitution and the Constitutional Court Law. The cases which may be examined by the Constitutional Court are exhaustively specified in Section 16 of the said Law. It follows from the decisions adopted in 2021 that the Constitutional Court does not have jurisdiction over, for example, the following claims:

1) the request to declare the regulation of the Cabinet Order No 655 of 6 November 2020 "Regarding the Declaration of the Emergency Situation" as unconstitutional. The Panels noted that in its form, a Cabinet Order was neither an external nor an internal normative act. In its content, this Order is a legislative act based on several legal provisions, which declares an emergency situation for a certain period of time to reduce the spread of the Covid-19 infection and establishes the restrictions related to the epidemiological safety requirements necessary to achieve this objective. The regulation of the Order is established in the context of, and is closely linked to, the prevention of a national threat – the increase in the prevalence of Covid-19 infection in Latvia and the related overburdening of the health sector. The provisions of the Order apply to an indefinite number of individuals in specific and identifiable circumstances. It is limited in time, i.e. it is set to remain in force during the emergency situation declared as a result of Covid-19. Consequently, the regulation contained in the Order constitutes a general administrative act and is subject to review by an administrative court;[69]

2) the request to declare the regulation of the Cabinet Order No 720 of 9 October 2021 "Regarding Declaration of the Emergency Situation" as unconstitutional. The reasoning for the decision of the Panels is essentially identical to that set out in the previous paragraph;[70]

3) a request for an assessment of the compatibility of a provision of law with the Universal Declaration of Human Rights,[71] the United Nations Basic Principles on the Independence of the Judiciary or the United Nations Guidelines on the Role of Prosecutors.[72] The Panel noted that the acts in question are not international treaties binding on Latvia;

4) a request for an assessment of the conflict between legal provisions of equal legal force;[73]

5) a request to instruct the legislator to amend the contested provisions, by expressing them in a specific wording;[74]

6) a request to assess the constitutionality of the rules and methodologies adopted by a credit institution. The Panel noted that these rules and methodologies were adopted by a private-law legal entity, a credit institution, which is governed, *inter alia*, by the Credit Institution Law. Credit institutions and their creditors are in a civil law relationship. The rules and methodology thus govern the private law relationship between a credit institution and its creditors. They do not, therefore, constitute a legislative act;[75]

7) a request to declare the actual conduct of an institution or official and a court decisions as unconstitutional, as well as to provide an assessment of the procedural documents prepared by the applicant;[76]

68 In 2019, the Constitutional Court Panels adopted 151 decisions on refusal to initiate a case, while in 2020, this number amounted to 172 decisions.

69 Decision of 9 December 2020 of the 1st Panel of the Constitutional Court on refusal to initiate a case on the basis of application No 224/2020; Decision of 9 December 2020 of the Assignments Hearing on refusal to initiate a case on the basis of application No 229/2020; Decision of the 2nd Panel of 11 January 2021 on refusal to initiate a case on the basis of application No 17/2021.

70 In total, the Panels adopted more than 40 decisions on refusal to initiate a case on applications contesting the provisions of the Cabinet Order No 720 of 9 October 2021 "Regarding Declaration of the Emergency Situation". See, for example , Decision of the 4th Panel of the Constitutional Court of 9 November 2021 on refusal to initiate a case on the basis of application No 187/2021 and the Decision of the 4th Panel of 26 November 2021 on refusal to initiate a case on the basis of application No 231/2021.

71 Decision of the 1st Panel of the Constitutional Court of 25 January 2021 on refusal to initiate a case on the basis of application No 258/2020.

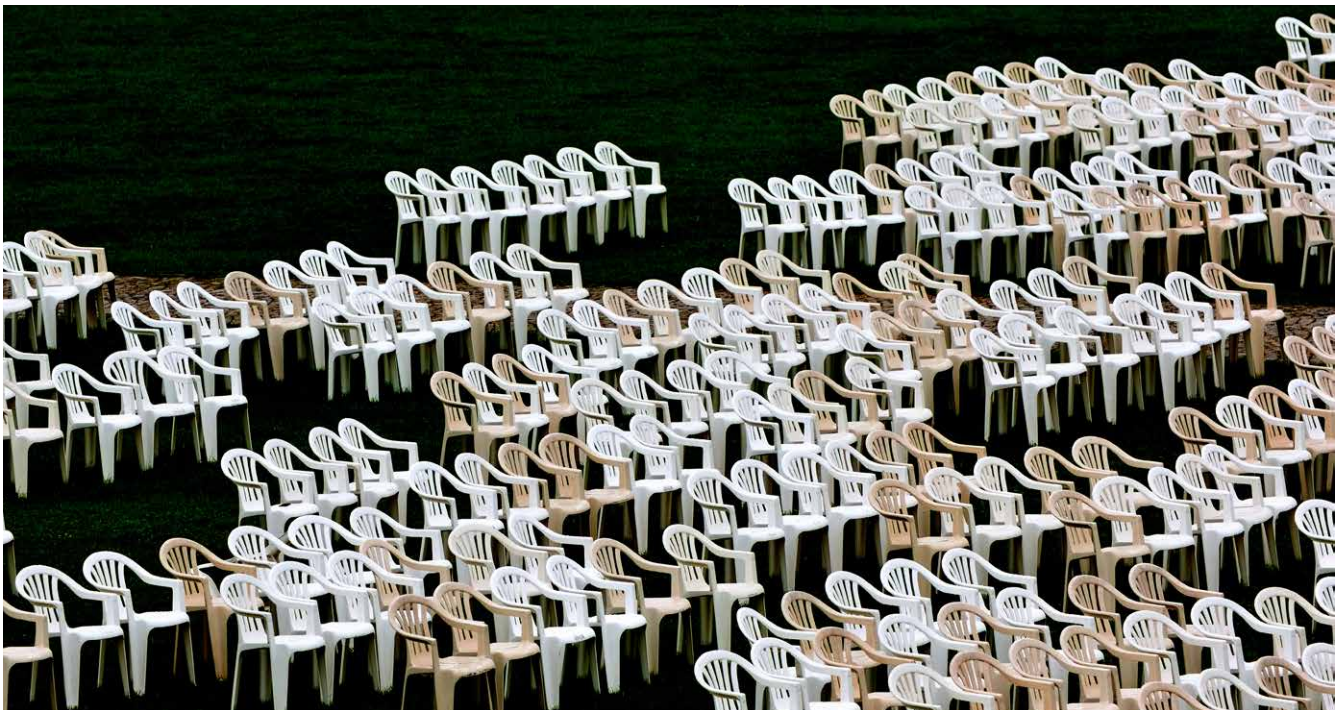
72 Decision of 18 January 2021 of the 1st Panel of the Constitutional Court on refusal to initiate a case on the basis of application No 6/2021.

73 Decision of the 1st Panel of the Constitutional Court of 25 January 2021 on refusal to initiate a case on the basis of application No 14/2021; Decision of the 2nd Panel of 9 March 2021 on refusal to initiate a case on the basis of application No 33/2021; Decision of the 1st Panel of 2 July 2021 on refusal to initiate a case on the basis of application No 110/2021.

74 Decision of the 1st Panel of the Constitutional Court of 1 March 2021 on refusal to initiate a case on the basis of application No 18/2021.

75 Decision of the 1st Panel of the Constitutional Court of 15 March 2021 on refusal to initiate a case on the basis of application No 26/2021.

76 Decision of the 2nd Panel of the Constitutional Court of 29 April 2021 on refusal to initiate a case on the basis of application No 70/2021.



8) a request to oblige an authority to act in a certain way;[77]

9) a request to revoke a decision of a court of general jurisdiction;[78]

10) a request for an assessment of the constitutionality of the USSR construction norms and regulations. The Panel noted that these acts are norms and regulations on construction issued and approved by the administrative bodies of the former USSR. During the occupation of Latvia, they formed a unified system of construction norms and regulations at the level of the USSR. Latvia is not the heir to the rights and obligations of the USSR. Section 16 of the Constitutional Court Law does not provide for the competence of the Constitutional Court to assess the compatibility of norms issued by other states with the Constitution;[79]

11) a request for clarification of the law;[80]

12) a request to allow the applicant to pay a security deposit for the submission of an ancillary complaint;[81]

13) a request to assess the compliance of the provisions of a Cabinet Regulation with the Resolution of the Parliamentary Assembly of the Council of Europe;[82]

14) a request for clarification of the rights of the applicant[83] or a request for clarification on general issues of interest to the individual;[84]

15) a request to assess the constitutionality of the obligation to vaccinate against Covid-19 infection.[85]

The applicant is not entitled to submit an application

Para 2 of Section 20(5) of the Constitutional Court Law provides that the Constitutional Court may refuse to initiate a case if the applicant is not entitled to submit an application. In 2021, this provision has been applied in one Panel decision. The application to the Constitutional Court had been submitted by a person who had been dismissed from the office of a judge by a decision of the Parliament. The application contested the compliance of several norms of the law On Judicial Power, as well as this decision of the Parliament, with the Constitution.

The Panel recognised that according to Section 17(2) of the Constitutional Court Law, the right to submit an application regarding initiation of a case regarding conformity of other acts of the Parliament, except for administrative acts, with law is held by the President, the Parliament of the Republic of Latvia, not less than twenty members of the Parliament, the Cabinet and the Judicial Council within the scope of the

77 Decision of the 1st Panel of the Constitutional Court of 31 May 2021 on refusal to initiate a case on the basis of application No 79/2021.
78 Decision of the 1st Panel of the Constitutional Court of 7 June 2021 on refusal to initiate a case on the basis of application No 87/2021 and Decision of the 2nd Panel of 25 August 2021 on refusal to initiate a case on the basis of application No 153/2021.
79 Decision of the 3rd Panel of the Constitutional Court of 9 June 2021 on refusal to initiate a case on the basis of application No 97/2021.
80 Decision of the 4th Panel of the Constitutional Court of 15 June 2021 on refusal to initiate a case on the basis of application No 98/2021.
81 Decision of the 2nd Panel of the Constitutional Court of 19 July 2021 on refusal to initiate a case on the basis of application No 127/2021.
82 Decision of the 4th Panel of the Constitutional Court of 18 August 2021 on refusal to initiate a case on the basis of application No 137/2021.
83 Decision of the 1st Panel of the Constitutional Court of 27 September 2021 on refusal to initiate a case on the basis of application No 161/2021.
84 Decision of the 2nd Panel of the Constitutional Court of 18 October 2021 on refusal to initiate a case on application No 185/2021.
85 Decision of the 3rd Panel of the Constitutional Court of 28 October 2021 on refusal to initiate a case on application No 186/2021.

competence stipulated in the law. Thus, the applicant is not among the persons who may submit an application regarding conformity of the acts referred to in Para 4 of Section 16 of the Constitutional Court Law with the law. Consequently, the applicant is not entitled to submit an application regarding the constitutionality of the decision of the Parliament by they were dismissed from the office of a judge.[86]

Non-compliance of the application with the requirements set out in the Constitutional Court Law

Para 3 of Section 20(5) of the Constitutional Court Law provides that the Constitutional Court may refuse to initiate a case if the application does not comply with the requirements specified in Sections 18 or 19–19.^{3} of this Law. This is the most frequently applied provision of law in the decisions of the Panels on refusing to initiate a case.

The application does not justify the infringement of a fundamental right of a person

From Section 19.^{2}(1) and Para 1 of Section 19.^{2}(6) of the Constitutional Court Law follows the obligation of the applicant of a constitutional complaint to justify that the contested provision infringes the fundamental rights defined in the Constitution. The Panels have repeatedly pointed out in their decisions that an infringement of the fundamental rights of a person can be established if: first, the person has specific fundamental rights established in the Constitution, i.e. the contested provision falls within the scope of the specific fundamental rights; second, the contested provision directly infringes the fundamental rights of the person defined in the Constitution. In 2021, based on the above-mentioned provisions of the Constitutional Court Law, the Panels adopted approximately 80 decisions on refusing to initiate a case in respect of all or part of an application. As in previous years, in 2021 a large part of these decisions concerned cases where: the person is not contesting the constitutionality of a legal provision, but rather a substantive interpretation and application of the legal provision; the person is bringing an action in the general interest, or *actio popularis*; the contested provision does not infringe the rights of the person.

For example, in application No 269/2020, the Panel found that the applicant had a right of ownership over undivided shares in immovable property. The Court of Appeal, on the other hand, dismissed the claim of the applicant against the other co-owners for the dissolution of the jointly owned property in question, since the application of Article 1074 of the Civil Law and the dissolution of the jointly owned property in this case would be contrary to the principle of good faith set out in Article 1 of the Civil Law. However, the observations included in the application on the conduct of the Court in changing the case-law and applying the contested provision cannot be the basis for initiating a case before the Constitutional Court. It was apparent from the application and the materials annexed thereto that, in rejecting the claim for the dissolution of the jointly owned property, the court relied, *inter alia*, on a legal assessment of the facts of the case as to whether the conduct of the parties complied with the principle of good faith. Thus, the Panel did not find from the application that it was Article 1 of the Civil Law, and not its application in the situation at hand, which caused the applicant an infringement of their fundamental rights enshrined in the Constitution.[87]

However, in the examination of application No 58/2021, the Panel found that the applicant had brought an action against the Latvian State for compensation of damages suffered as a result of a disproportionately long restriction of their right to property . The Court had determined the damages suffered by the applicant in accordance with the Civil Law, recognising also their right to receive statutory interest for the default in reimbursement of the real estate tax. At the same time, the Court had applied Article 1656 of the Civil Law and held that the State of Latvia, in the person of the Ministry of Transport, should not be obliged to pay the statutory interest to the applicant, as it had not been paid compensation for the immovable property to be expropriated within a reasonable time.

The Panel found that the application and the documents annexed thereto confirmed that, in accordance with this provision, in determining the damages to be compensated to the applicant, the court had applied the provisions of the Civil Law governing damages. However, in deciding on the claim for the recovery of statutory interest, the court had applied the provisions of the Civil Law on the default of the debtor and, based on a legal assessment of the circumstances established in the case, satisfied the claim in part. The considerations of the applicant on the infringement of their fundamental rights determined in the Constitution concern the application of Article 1656 of the Civil Law by a court of general jurisdiction. However, such considerations cannot be the basis for initiating a case before the Constitutional Court, since the latter does not assess issues of application of legal provisions.[88]

An example of a situation in which a person applies to the Constitutional Court with a complaint in favour of the general public (*actio popularis*) is application No 249/2020. It challenged the constitutionality of Aricle 4(1) of the law On Emergency Situation and State of Exception, which defines an emergency situation. The applicant held that, by the contested provision, the legislator had unjustifiably established the right of the Cabinet of Ministers to adopt decisions during an emergency situation, which restrict the fundamental rights of a person. The

86 Decision of the 2nd Panel of the Constitutional Court of 18 June 2021 on refusal to initiate a case on the basis of application No 107/2021.
87 Decision of the 2nd Panel of the Constitutional Court of 1 January 2021 on refusal to initiate a case on the basis of application No 269/2020.
88 Decision of the 2nd Panel of the Constitutional Court of 19 April 2021 on refusal to initiate a case on the basis of application No 58/2021.

Cabinet of Ministers has such a right only in the case of an exceptional situation established in Article 62 of the Constitution. On the contrary, the Panel held that the application did not justify the adverse effects of the contested provision on the applicant. In particular, the application did not indicate objectively verifiable facts which would characterise the infringement of the applicant's fundamental rights caused by the contested provision.[89]

An example of a situation in which a person applies to the Constitutional Court regarding the constitutionality of a norm which does not infringe their rights is application No 108/2021. It contested the constitutionality of several norms of Cabinet Regulation No 360 of 9 June 2020 "Epidemiological Safety Measures for the Containment of the Spread of Covid-19 Infection". The applicant indicated that, on the basis of the contested provisions, they would have to wear a face mask at their workplace. Moreover, persons vaccinated against Covid-19 infection would also have to wear a face mask and keep a distance of two metres due to their presence, which would create an undesirable working environment and different treatment of the applicant. Also, according to the contested provisions, the applicant would not be able to participate in indoor sports training and public events, as well as to receive face-to-face services, including catering, entertainment and culture services, to participate in professional development activities, unlike vaccinated persons who will have such rights.
However, the Panel held that the application did not indicate objectively verifiable facts which would characterise the infringement of the fundamental rights caused to the applicant by the contested provisions and would allow to establish the moment of its occurrence. In particular, the application fails to indicate when and how the contested provisions became applicable to the applicant, and what adverse effects exactly do those norms have had on the applicant. Accordingly, no set of circumstances can be established which would enable the Panel to establish that the contested provisions have caused adverse consequences directly for the applicant.[90]

The applicant has not exhausted all available general legal remedies
Section 19.^{2}(2) of the Constitutional Court Law provides that a constitutional complaint may be submitted only if all the options have been used to protect the specified rights with general remedies for protection of rights – a complaint to the higher authority or higher official, a complaint or statement of claim to a general jurisdiction court – or if such do not exist. This provision provides for the obligation of the applicant to exhaust all available general remedies before applying to the Constitutional Court. In 2021, on the basis of Section 19.^{2}(2) of the Constitutional Court Law , the Panels adopted approximately 20 decisions on refusal to initiate a case.

For example, application No 20/2021 sought a declaration that certain provisions of the Decision of the Council of the Public Utilities Commission

89 Decision of the 2nd Panel of the Constitutional Court of 7 January 2021 on refusal to initiate a case on the basis of application No 249/2020.
90 Decision of the 1st Panel of the Constitutional Court of 16 June 2021 on refusal to initiate a case on the basis of application No 108/2021.

No 1/23 of 13 August 2018 "Methodology for Calculation of the Rate of Return on Capital" are unconstitutional. According to the applicant, an appeal before an administrative court against the decision of the Commission adopted on the basis of the decision of 13 August 2018 is not an effective remedy, as such a decision is a mandatory administrative act. In particular, the administrative court was said not to be competent to remedy the infringement of fundamental rights caused by the contested provisions. At the same time, the application also indicated that, by adopting the decision, the Council of the Public Utilities Commission determined the content of the components of the calculation of the rate of return on capital specified in the contested provisions.

Referring to the case-law of the Constitutional Court, the Panel, first of all, pointed to both the purpose of the subsidiarity principle and the competence of the administrative court. That is to say, where a fundamental right is infringed by an act of application of law, the person must use the general legal remedies which provide for the possibility to appeal against the act of application of law through which the provision infringed the fundamental rights of the person. However, proceedings before an administrative court cannot be recognised as an ineffective legal remedy within the meaning of the Constitutional Court Law, *inter alia*, because the administrative court also exercises control over the hierarchy of legal force of legal provisions. Furthermore, the Panel noted that the applicant had appealed against the decision of the Council of the Public Utilities Commission and the Regional Administrative Court had initiated an administrative case. The case is still pending. The Panel thus concluded that the applicant had begun to seek redress through the general remedies, but had not exhausted them to the full.[91]

Application No 131/2021 requested the Court to declare that Para 1 of Section 23 of the Punishment Register Law was not compliant with Article 96 of the Constitution. On the basis of this provision of the law, the applicant's data on criminal proceedings in which they were acquitted are included in the database of the Punishment Register Archive. The Panel noted that according to Section 2 of the said Law, the Punishment Register is a State information system, the manager and keeper of which is the Information Centre of the Ministry of the Interior. However, according to the case-law of the administrative courts, it is the actual action of the institution to enter and keep information in the public registers. According to Sections 2, 91 and 121 of the Administrative Procedure Law, the actual action of an institution is subject to contestation before the institution and appeal before an administrative court. However, the application did not confirm that the applicant had defended the rights infringed in accordance with the procedure laid down in Section 91 of the Administrative Procedure Law. Consequently, the Panel concluded that prior to applying to the Constitutional Court, the applicant had not availed themselves of possibilities to defend their rights through general remedies.[92]

The Constitutional Court has held that in a situation where a legal provision provides for a clear and explicit prohibition to appeal against a decision before a court, a person has no other possibility to defend their rights by means of general legal remedies.[93] In contrast, in 2021, the Panels have faced cases where applicants have sought general remedies that are not provided for in the law. For example, upon examination of application No40/2021, it was established that the applicant had submitted a complaint to the Supreme Court regarding a decision of the Regional Court, *inter alia*, on the basis of the first sentence of Article 92 of the Constitution and several provisions of European Union legislation. The Supreme Court did not examine the complaint on its merits and sent it back to the applicant by letter. The Panel noted that the law expressly provides that the decision of the Regional Court is not subject to appeal. Thus, the applicant had no possibility to defend their rights by means of general remedies and their complaint in the given situation cannot be regarded as such a remedy within the meaning of the Constitutional Court Law. The Panel therefore concluded that the time-limit for filing the application should run from the date of entry into force of the decision of the Regional Court.[94]

The applicant has missed the deadline for submitting an application

Section 19.^{2}(4) of the Constitutional Court Law provides that a constitutional complaint may be submitted within six months after coming into effect of the decision of the last authority, or in case if it is not possible to defend the fundamental rights stipulated in the Constitution using general remedies for protection of rights, within six months from the time when the fundamental rights were infringed. In 2021, the Panels adopted 12 decisions on refusal to initiate a case on the basis of this provision.

However, when examining application No 19/2021, the Panel found that the applicant sought a declaration that Section 55(11) of the Criminal Law was not compliant with a provision of the Convention on the Rights of the Child. The contested provision of the Criminal Law provides, *inter alia*, that a suspended sentence may not be imposed on a person who has committed certain crimes provided for in the Criminal Law. The application stated that a child could be detained only in cases of extreme necessity and for the shortest possible period of time. Thus, by adopting the contested provision of

91 Decision of the 1st Panel of the Constitutional Court of 1 March 2021 on refusal to initiate a case on the basis of application No 20/2021.
92 Decision of the 2nd Panel of the Constitutional Court of 3 August 2021 on refusal to initiate a case on the basis of application No 131/2021.
93 Judgment of the Constitutional Court of 10 June 2014 in Case No 2013-18-01, Para 9
94 Decision of the 1st Panel of the Constitutional Court of 6 April 2021 on refusal to initiate a case on the basis of application No 40/2021.

the Criminal Law, the legislator has failed to fulfil its obligation to specially protect children. According to the applicant, the time-limit for submitting their constitutional complaint should be calculated from the moment of the violation of their fundamental rights, i.e. the moment when a psychologist informed the applicant that it was not necessary to impose a sentence of deprivation of liberty on them. The time-limit may also be calculated from the moment when, after their transfer to another prison unit, the applicant had to meet other prisoners. At that point in time, the applicant experienced the sentence of imprisonment as a violation of their fundamental rights.

The Panel of the Constitutional Court noted that in a case where fundamental rights were infringed by an act of application of law, the person had to use general legal remedies which provided for the possibility to contest or appeal the act of application of law through which the legal provision had infringed the fundamental rights of that person. According to the first sentence of Section 19.^{2}(4) of the Constitutional Court Law, in such a case, the decision of the last authority is to be considered as the starting point of the counting of the procedural period for submitting a constitutional complaint. The applicant had appealed against the judgment of the court of first instance which was unfavourable to them, and had thus exhausted all possibilities to defend their rights by means of general legal remedies. Therefore, the time-limit for filing a constitutional complaint for the applicant is to be counted from the date of entry into force of the decision of the last authority – the decision of the Supreme Court on refusal to initiate cassation proceedings – and this had not been complied with.[95]

The Constitutional Court also took a decision in an assignments hearing on the issue of when to start counting down the time limit for submitting an application in the case where a summary decision had been adopted in proceedings regarding criminally acquired property. The Court stated that in order to be able to properly exercise the right to submit a constitutional complaint, any party to proceedings regarding criminally acquired property must have access to the decision on the criminally acquired property, from which they can learn the legal provisions applied to them and the reasoning of the court. The fact that the date of availability of the full ruling of the court is determined on a case-by-case basis. This, in turn, means that the right of a party to proceedings regarding criminally acquired property to submit a constitutional complaint becomes dependent on circumstances which are effectively beyond their control. Hence, the Constitutional Court concluded that in order to ensure compliance with the principle of legal equality, in accordance with the first sentence of Section 19.^{2}(4) of the Constitutional Court Law, in such a case, the time-limit for submitting a constitutional complaint should be counted from the date when the full relevant court decision became available to the person.[96]

The application does not contain legal basis

Para 4 of Section 18(1) of the Constitutional Court Law provides that the application to the Constitutional Court must contain the legal basis therefor. In 2021, the Panels took around 40 decisions on refusal to initiate a case after establishing that the application did not include this. This ground for refusal was mostly applied in cases of constitutional complaints.

In general, the applications on which the Panel took the above decisions were characterised by their relatively concise statement of facts. Namely, in such applications, the applicant provides a statement of the facts of the particular situation and a general opinion on the content of the specific constitutional provision and the contested provision, as well as cites, for example, other legal provisions, case-law of courts or conclusions of legal doctrine. In some cases, the applicant also might merely indicate that the restriction of the fundamental right established in the contested provision is not established by law, or only that there are more lenient means of achieving the legitimate aim of the restriction of the fundamental right. At the same time, no legal arguments are given as to why this restriction is not imposed by law or what the most lenient means might be. The Panels do not take such considerations to constitute legal basis for the application within the meaning of the Constitutional Court Law.

In a number of cases, Para 4 of Section 18(1) of the Constitutional Court Law has been the justification for refusing to initiate a case on the basis applications submitted by courts. Upon examination of application No 112/2021, the Panel found that the applicant was examining an administrative case regarding the issuing of a favourable administrative act which would legally establish the family relations of the applicants, two persons of the same sex. The Civil Registry Office refused to register the family relations of the applicants. It held that the list of civil status acts to be registered set out in Section 3(1) and (3) of the Law On Registration of Civil Status Acts does not include the type of civil status act that would allow the registration of family relations of same-sex partners'. In the view of the applicant, such legal regulation does not comply with the first sentence of Article 110 of the Constitution in conjunction with the principle of human dignity enshrined in Article 1 of the Constitution.

Referring to the case-law of the Constitutional Court, the Panel noted that the legislator's obligation to ensure legal protection of the family enshrined in the first sentence of Article 110 of the Constitution requires the establishment of a legal regulation of family relations

95 Decision of the 2nd Panel of the Constitutional Court of 16 January 2021 on refusal to initiate a case on the basis of application No 49/2021.
96 Decision of the Constitutional Court of 16 June 2021 on refusal to initiate a case on the basis of application No 88/2021.

based in the social reality, i.e. to establish the personal and property relations of the participants of these relations. The legislator has the right to establish a legal framework for family relations which is based on objective and reasonable criteria. The legislator is obliged to take into account the specific nature of these relations, including the differences between the parties and situations, which require an appropriate legal framework for family relations. Currently, Latvia's legal system fails to fulfil the obligation to provide legal protection of the family. Moreover, this obligation takes a reasonable time to fulfil and the legislator has some discretion as to the form and content of the legal framework for family relations. That is, when determining the legal regulation of family relations, the legislator is entitled to choose different solutions, as long as the legal regulation in question provides persons with an opportunity to legally consolidate their family relations and to be recognised by the State as a family.

Consequently, the Panel concluded that the application did not provide legal basis as to why the circumstances of the case under consideration by the applicant should not be covered by the above-mentioned findings of the Constitutional Court regarding the discretion of the legislator in determining the form and content of the legal regulation of family relations between same-sex partners. In particular, the application did not provide legal basis to why the legal protection of family relations of same-sex partners should be ensured specifically by registration in the Register of Civil Status Acts, and thus it is not substantiated that the contested provisions of the Law on Registration of Civil Status Acts are unconstitutional.[97]

The application is incompatible with other requirements specified in the Constitutional Court Law

Section 18 of the Constitutional Court Law sets out the general requirements to be complied with by all applicants. Such a requirement also includes the obligation to attach to the application, *inter alia*, the documents necessary to clarify the circumstances of the case, as well as to indicate in the application the precise provision of law the compliance of which with a provision of higher legal force is to be assessed.

97 Decision of the 1st Panel of the Constitutional Court of 7 July 2021 on refusal to initiate a case on the basis of application No 112/2021.

In its examination of application No 264/2020, the Panel found that the applicant had failed to attach to the application the documents necessary to establish the circumstances of the case. The application challenged a Cabinet Regulation according to which a parent of a family with many children has the right to pay the state fee for the registration of property rights in the Land Register in a reduced amount. At the same time, according to this Cabinet Regulation, in order for a parent of a family with many children to be granted such rights, several mandatory conditions must be met: the declared or registered place of residence of the family members must be in the Republic of Latvia; the parents of the children must not have had their custody rights terminated or deprived; and they must not be registered as debtors in the Register of Applicants and Debtors of the Maintenance Guarantee Fund Administration. Since the application was not accompanied by such documents, the Panel held that the application did not comply with the requirements of Para 2 of Section 18(4) and Para 1 of Section 19.^{2}(7) of the Constitutional Court Law.[98]

However, in examining application No 153/2021, the Panel noted that according to Para 5 of Section 18(1) of the Constitutional Court Law, the application must indicate a claim to the Constitutional Court. This means that the application must specify the legal provision whose compliance with a legal provision of higher legal force the Constitutional Court should assess, as well as the provision of higher legal force. In formulating a claim, the applicant had indicated a provision of higher legal force against which the compatibility of the provisions should be assessed. However, the provisions of the specific law whose compliance with a provision of higher legal force the Constitutional Court should assess had not been specified. Thus, the Panel recognised that the claim was vague, and, if interpreted reasonably, the legal provision whose compatibility with the Constitution should be examined by the Constitutional Court could not be identified. Hence, the application was not compliant with the requirements set out in Para 5 of Section 18(1) of the Constitutional Court Law.[99]

Res judicata

Para 4 of Section 20(5) of the Constitutional Court Law provides that the Constitutional Court may refuse to initiate a case if an application is submitted regarding a claim that has already been tried. The Panels have adopted seven decisions based on this provision in 2021.

Upon examination of application No 6/2021, the Panel established that the Applicant, *inter alia*, requested to declare Section 1(1) of the Office of the Prosecutor Law as not compliant with Articles 82, 84 and 86 of the Constitution. On 20 December 2006, the Constitutional Court had adopted a judgment in Case No 2006-12-01. In this judgment, the Court analysed the status and place of the Prosecution Office in the constitutional system of the State and found that the current status of the Prosecution Office as an organ of the judiciary best ensures both the effective performance of its functions and the independence of the judiciary as a whole and is fully consistent with the principle of the separation of powers. Taking into account the above, the Constitutional Court recognised Section 1(1) of

98 Decision of the 1st Panel of the Constitutional Court of 26 January 2021 on refusal to initiate a case on the basis of application No 264/2020.
99 Decision of the 2nd Panel of the Constitutional Court of 25 August 2021 on refusal to initiate a case on the basis of application No 153/2021.

the Office of the Prosecutor Law as compliant with Articles 82 and 86 of the Constitution.

The claim in application No 6/2021 was based on the general opinion of the applicant on the functions and status of the Prosecution Office, as well as objections to Judgment of the Constitutional Court in Case No 2006-12-01. In addition, the applicant indicated that the procedure for the appointment of prosecutors established in the applicant does not comply with the procedure for the appointment of judges provided for in Article 84 of the Constitution.

The Panel concluded that the considerations raised in the application on the alleged incompatibility of Section 1(1) of the applicant with Articles 82, 84 and 86 of the Constitution essentially concerned the issue of the status and place of the Prosecution Office in the constitutional system of the State. The mere fact that the applicant had, in addition, made a general reference to Article 84 of the Constitution did not change the substance of the claim contained in this application. The Constitutional Court has already adjudicated such a claim in Case No 2006-12-01, *inter alia*, by examining the compliance of Section 1(1) of the Office of the Prosecutor Law with Articles 82 and 86 of the Constitution. The application did not state the justification that there were substantial new circumstances which would prevent the claim from being regarded as having been adjudicated. Consequently, the Panel held that the application in the part on the non-compliance of Section 1(1) of the Office of the Prosecutor Law with Articles 82, 84 and 86 of the Constitution was submitted in respect of a claim that had already been adjudicated.[100]

Changes to the legal basis or statement of facts of a case in a repeatedly submitted application

Para 5 of Section 20(5) of the Constitutional Court Law grants to the Panel of the Constitutional Court the right to refuse to initiate a case if the legal justification or statement of actual circumstances included in the application has not changed on its merits in comparison to the previously submitted application regarding which a decision was taken by the Panel. In 2021, approximately 30 decisions on refusal to initiate a case were taken on the basis of this provision.

Para 5 of Section 20(5) of the Constitutional Court Law is based on the principle of procedural economy and relieves the work of the Panels in cases where applications are repeatedly submitted to the Court, the legal justification or facts of which are similar to a previously submitted application.

The Panel, having examined application No 114/2021, noted that the repeatedly submitted application was supplemented by the opinion of the applicant on what constituted a general legal remedy in the particular situation. In its decision, the Panel emphasised that compliance with the principle of subsidiarity enshrined in Section 19.^{2}(2) of the Constitutional Court Law requires exhaustion of the real and effective possibilities to defend the fundamental rights infringed, rather than resorting to any theoretically possible legal remedies that could apply to the situation of the applicant. The compliance of a constitutional complaint with the requirements laid down in Section 19.^{2}(2) of the Law is assessed on the basis of the factual and legal situation in question, including by taking into account the procedure for appealing against the specific acts of application of legal provisions, as stipulated by the laws and regulations.

In the decision on refusal to initiate a case adopted earlier, the situation of the applicant was assessed and it was established that in the given case, the right to appeal against the decisions of the investigating judge to a court of higher instance was the general legal remedy within the meaning of the Constitutional Court Law, and the time limit for filing a constitutional complaint should be counted from the moment the relevant court decisions enter into force. However, a difference of opinion on the part of the applicant as to the general legal remedies available in a given situation does not constitute a substantial change in the facts or in the legal basis. Accordingly, the Panel held that the facts and the legal basis of the application remained substantially unchanged from the earlier application regarding which a decision had already been taken by the Panel.[101]

The legal basis is obviously insufficient for satisfying the claim

Pursuant to Section 20(6) of the Constitutional Court Law, the Panel has the right to refuse to initiate a case if the legal basis provided in the constitutional complaint is obviously insufficient for satisfying the claim. In 2021, the Panels adopted just over 30 decisions refusing to initiate a case on the basis of this provision.

Section 20(6) of the Constitutional Court Law applies only to one type of application – a constitutional complaint. The decisions adopted on this basis were mainly on constitutional complaints which concerned issues of law already assessed in the case-law of the Constitutional Court. For example, in application No 133/2021, the applicant requested to assess compliance of the second sentence of Section 631(3) of the Criminal Procedure Law with the first sentence of Article 92 of the Constitution. This provision of the Criminal Procedure Law provides that the decision of the appellate court in respect of criminally acquired property is not subject to appeal.

100 Decision of 18 January 2021 of the 1st Panel of the Constitutional Court on refusal to initiate a case on the basis of application No 6/2021.

101 Decision of the 1st Panel of the Constitutional Court of 8 July 2021 on refusal to initiate a case on the basis of application No 114/2021.

The application indicated that the restriction to appeal against the decision of the appellate court in the cassation procedure was not justified and the necessity of such restriction was not duly assessed during the adoption of the contested provision. Moreover, in proceedings regarding criminally acquired property, the issue regarding interpretation of substantive and procedural legal provisions inherent to the cassation court are more significant than in the case of general criminal proceedings, the resolution of such issues creates legally complicated situations and a pose greater risk of violation of the fundamental rights of a private individual.

Referring to the case-law of the Constitutional Court, the Panel recognised that the right to review a court decision, i.e. the right to appeal against a court decision to a higher instance, was an essential part of the right to a fair court. It is therefore the responsibility of the State to establish a legal framework and appeal procedures which allow individuals to effectively defend their rights and lawful interests. At the same time, the legislator, within the limits of its discretion resulting from Latvia's legal system and international human rights standards binding on the State, may determine the categories of cases in which court decisions may not be appealed. The right to a fair court enshrined in Article 92 of the Constitution does not provide for an appeal and review of every decision by a higher instance. Nor do the international human rights norms binding on Latvia provide for a person's subjective right to appeal any court decision in cassation procedure. In order to determine whether, in accordance with Article 92 of the Constitution, an appeal against a decision of a higher instance should be ensured, it is necessary to, *inter alia*, assess, first, whether a person is ensured a fair trial before the court of the instance which adopts the relevant decision. Second, what is the nature of the category of cases within which the court's decision is adopted and what is the legislator's aim in regulating this category of cases.

It does not follow from the legal basis stated in the application that the decision of the appellate court referred to in the contested provision falls within the category of cases in which the legislator would be obliged to ensure cassation appeals pursuant to the first sentence of Article 92 of the Constitution. In particular, the application did not contain legal arguments to the effect that the nature of that category of cases and the legislator's purpose in regulating thereof would entail the need to provide for the possibility to appeal against a decision of an appellate court in such a case by way of cassation procedure.

The legal basis of the application was therefore found to be obviously insufficient to support the claim.[102]

Other requests from applicants

In their decisions on refusal to initiate a case, the Panels of the Constitutional Court have also had the opportunity to decide on other issues. In most cases, upon concluding that the application does not comply with the requirements of the Constitutional Court Law and, therefore, the case should not be brought before the Court, the Panel leaves these requests without consideration. However, in some cases, the request of the applicant may be relevant for the further progress of the application.

For example, in application No 20/2021, the applicant sought a declaration that the examination of the constitutional complaint was as a matter of general interest. This complaint contested the constitutionality of the decision of the Council of the Public Utilities Commission. However, the Regional Administrative Court had already initiated a case on the legality of an administrative act issued on the basis of the respective decision of the Council of the Public Utilities Commission.

The Chamber noted that the recognition of the examination of a constitutional complaint as a matter of general interest was to be regarded as an exceptional measure of the Constitutional Court procedure, applicable in exceptional cases. In order for a complaint to be considered a matter of general interest, it must be established that the legal situation described in the complaint affects persons other than the applicant, and that the legal situation in question must be considered of particular importance in itself and require an immediate solution. Pursuant to the Section 185(5) and Section 185.^{1}(2) of the Administrative Procedure Law, if the operation of the administrative act appealed against would cause significant damage or losses, the prevention or compensation of which would be significantly hindered or would require unreasonable resources, the applicant is entitled to request the court to suspend the operation of the administrative act. In addition, the Panel obtained information from the Judicial Information System that the applicant had submitted such a request to the Administrative Court and that it was pending.

Consequently, the Panel recognised that, although the contested provisions also applied to other persons, the application did not confirm that the situation of the applicant could be recognised as particularly serious and would require immediate resolution before the Constitutional Court before all general legal remedies had been exhausted. Thus, in the given case, there were no grounds for the application of Section 19.^{2}(3) of the Constitutional Court Law.[103]

Application No 151/2021 requested application of a provisional legal remedy and to suspend the decision of the Academic Ethics Commission of the University of Latvia. Referring to the case-law of the Constitutional Court, the Panel noted: if a constitutional complaint has been submitted, it is possible, pursuant to Section 19.^{2}(5) of the Constitutional Court Law, to apply a provisional remedy – suspension of the enforcement of the court ruling. The law does not provide for other provisional remedies. The introduction of other provisional remedies is also not a procedural matter regulated by the Constitutional Court Law and the Rules of Procedure of the Constitutional Court, which the Court would be entitled to decide. Consequently, the Panel held that the request for suspension of the decision of the Ethics Commission should be left without consideration.[104]

102 Decision of the 3rd Panel of the Constitutional Court of 9 August 2021 on refusal to initiate a case on the basis of application No 133/2021.
103 Decision of the 1st Panel of the Constitutional Court of 1 March 2021 on refusal to initiate a case on the basis of application No 20/2021.
104 Decision of the 3rd Panel of the Constitutional Court of 26 August 2021 on refusal to initiate a case on the basis of application No 151/2021.

3 DIALOGUE

The task of the Constitution is to ensure Latvia's sustainable existence as a democratic state governed by the rule of law throughout the ages. The provisions, principles and values of the Constitution provide that the sustainability of the Latvian state is ensured and the development of society takes place within a legal framework in accordance with the rule of law. There are no issues for which the principle of the rule of law does not impose certain quality criteria. The constitutional duty of the Constitutional Court under Article 85 of the Constitution is to ensure the supremacy of the Constitution and, therefore, the comprehensive rule of law. In each judgment, the Constitutional Court indicates the legal framework within which the priority work for the development of the Latvian State should be carried out. At the same time, the principle of the rule of law, as reflected in the Constitution, requires dialogue with society and public authorities in order to ensure the sustainability of a democratic state governed by the rule of law.

In such a state, dialogue between different groups in society and the authorities of state power is necessary to build relations of mutual trust and confidence, as well as to realise a shared vision for the future of the country (Preamble and Article 1 of the Constitution). Belonging to the international community and trusting in the idea of a united Europe requires active international cooperation and maintenance of a supranational dialogue in order to promote international peace and security (Preamble and Article 68 of the Constitution). The Constitutional Court is thus engaged in a dialogue at national, European, and international level. The dialogue conducted by the Constitutional Court at all levels is aimed at providing correct, clear and operative information, listening attentively to the other party and studying each situation in depth. Through dialogue, the Constitutional Court identifies and seeks the most appropriate solutions to overcome the legal challenges of the modern era.

The Constitutional Court establishes a dialogue with the public in accordance with the Communication Strategy of the Constitutional Court, also taking into account the Judicial Communication Strategy and the Judicial System Communication Guidelines approved by the Judicial Council on 18 May 2015. Access to information and active communication contribute to public confidence in the judiciary. It is important that the Constitutional Court informs the public about its work not only in matters of litigation, but also about the work carried out in the framework of national, European, and international cooperation. The role of the Constitutional Court is much broader than its statutory functions, therefore, a number of activities at the national level are related to educating the public about the fundamental values of Latvia as a democratic state governed by the rule of law, as enshrined in the Constitution.

Alongside dialogue with the public, dialogue with public authorities is also vital. As the Constitutional Court has held before, its task is not only to resolve disputes on the compliance of laws with the Constitution, but also to give its assessment on issues of constitutional importance. Annual meetings of the Justices of the Constitutional Court with the President of the State, the Chairperson of the Parliament, the Prime Minister, the Minister of Justice and other state officials have become an established tradition.

The judicial dialogue in the European legal area and international cooperation include the dialogue of the Constitutional Court with the courts of Latvia, the constitutional courts of other EU Member States and third countries, the Court of Justice of the European Union, the European Court of Human Rights, as well as the International Court of Justice. This judicial dialogue allows to share experience, accumulate new knowledge, engage in constructive discussions and exchange views on current issues and challenges in constitutional law not only at the national level, but also at the European and global level. Last September, in cooperation with the Court of Justice of the European Union, the Constitutional Court organised a unique event – an international conference where, for the first time in the history of the European Union, justices from the constitutional courts of the EU Member States and the Court of Justice of the European Union gathered together to find a common understanding through constructive dialogue on how to reconcile the idea of European unity with the different constitutional traditions and national identities of the Member States.

The Covid-19 pandemic has had a significant impact on the dialogue conducted by the Constitutional Court. To help contain the spread of Covid-19, many dialogue events were postponed to the following year or held remotely using the opportunities provided by modern technology. The Constitutional Court carefully assesses the necessity and expediency of each event in the light of changes in the epidemiological situation. Dialogue events are organised in accordance with epidemiological safety requirements, safety protocols and recommendations.

The Court's work during the Covid-19 pandemic

Due to the rapid spread of Covid-19 infection, an emergency situation was declared throughout the territory of Latvia from 9 November 2020 to 6 April 2021 and from 11 October 2021 to 28 February 2022. During the emergency situation, the Constitutional Court took measures to ensure the full continuation of the Court's work and the examination of cases within the time limits established by law, while preventing risks to the health of justices, court employees, participants and visitors. However, the epidemiological safety requirements and precautions to limit the spread of Covid-19 had a significant impact on the organisation of the Court's work, the communication strategy and the planned dialogue activities.

Court hearings

In order to reduce the spread of Covid-19 infection, the Constitutional Court established a special procedure for the organisation of work and reception of visitors for the entire duration of the emergency. The work of the Constitutional Court was organised in such a way that the justices and employees of the Constitutional Court could work remotely, while only those employees who ensured the continuity of the Court's work performed their duties in person.

In view of the epidemiological security measures in place in the country to limit the spread of Covid-19, the hearings with the parties took place remotely by videoconference. In the context of the global pandemic, the Constitutional Court was one of the first courts in the world to implement the judicial process in the digital environment and to ensure the possibility to follow the proceedings of cases at the court hearing. Currently, anyone interested can follow the Constitutional Court hearings with the participation of parties to the case on the *YouTube* channel of the Court.

During the reporting period, the Constitutional Court examined two cases remotely with the participation of parties: No 2020-37-0106 on the administrative-territorial reform and No 2021-06-01 on the procedure for calculating and paying personal income tax for performers of economic activity. The delivery of the judgments, as well as the post-ruling press conferences, were also held remotely.

Visitors to the Court

During the emergency situation, the Constitutional Court regularly informed the public about the continuity of the Court's work and the procedure for submitting applications, familiarisation of the parties with the case materials and reception of visitors in accordance with the requirements for epidemiological safety.

To prevent a sharp increase in the incidence of Covid-19, and to create safe conditions for the health of court staff and visitors at the same time, all visitors were required to disinfect their hands before entering the court, wear a face mask and observe distancing guidelines. The Constitutional Court communicates with persons using remote communication tools (telephone, e-solutions, postal services, use of the Constitutional Court mailbox).

The Constitutional Court regularly reviewed the procedures governing the organisation of the Court's work in the different circumstances of the spread of the Covid-19 infection and adapted its work to the situation.

Public statements by the Constitutional Court on its work during the Covid-19 pandemic

Press releases: 1 [in English]
Tweet [in Latvian]

Changes in the composition of the Constitutional Court Justices

On 11 March 2021, the Parliament confirmed *Dr. iur.* Anita Rodiņa, the Dean and Associate Professor of the Faculty of Law of the University of Latvia as a Justice of the Constitutional Court. And on 20 April 2021, *Dr. iur.* Anita Rodiņa took the oath of office and assumed the office of a Justice of the Constitutional Court.

The oath of office of Justice Anita Rodiņa of the Constitutional Court was taken by President of Latvia Mr Levits at an online ceremony. The Justices of the Constitutional Court also participated in the ceremony remotely. With this development, the Constitutional Court is now composed of seven judges.

On 9 December 2021, the Parliament confirmed Dr. iur. Irēna Kucina, the Deputy Head of the Chancellery of the President of Latvia, Head of the Office of Advisers to the President of Latvia and Adviser on Rule of Law and European Union Law Policy, Associate Professor at the Faculty of Law of the University of Latvia, as a Justice of the Constitutional Court. Dr. iur. Irēna Kucina will take the oath of office and will take up the office of a Justice of the Constitutional Court at the beginning of 2022. The mandate of Justice Sanita Osipova of the Constitutional Court will therefore end.

11.03.2021
Anita Rodiņa has been appointed as a Justice of the Constitutional Court.
Tweet [in Latvian]

20.04.2021
Dr. iur. Anita Rodiņa takes office as a Justice of the Constitutional Court.
Video of the swearing-in ceremony of Anita Rodiņa [in Latvian]
Press releases: 1 [in Latvian]; 2 [in English]
Tweets: 1 [in Latvian]; 2; 3 [in English]

09.12.2021
Irēna Kucina is confirmed as a Justice of the Constitutional Court.
Tweet [in Latvian]

3.1. DIALOGUE WITH THE PUBLIC

The democratic discourse and information space of the 21st century require a wide-ranging dialogue, using a variety of communication tools. The Constitutional Court maintains active dialogue with the public.

The Constitutional Court uses the dialogue to communicate with the public and media representatives on the proceedings and rulings on a daily basis. Information is regularly prepared and provided on cases initiated and pending before the Court, as well as on the latest developments in the Court's work and the dialogue events organised. In addition, the Constitutional Court also informs the public about the Court's cooperation at the national, European and international levels. Communication is aimed at informing the public in a timely and comprehensive manner and at enabling people to deepen their knowledge and understanding of the processes of a democratic state governed by the rule of law. The Constitutional Court offers high-quality, comprehensive and easy-to-understand information on the work of the Constitutional Court and the values enshrined in the Constitution.

In order to strengthen national consciousness, encourage participation in state affairs and develop understanding of the fundamental values of Latvia as a democratic state governed by the rule of law, an active dialogue with the public is necessary to broaden knowledge and understanding of the Constitution and the functions of the Constitutional Court. The Constitutional Court therefore also organises a number of national events aimed at promoting public interest in the Constitution, highlighting its importance for the existence of the State and the life of every Latvian citizen, strengthening understanding of the values and freedoms protected by the Constitution, in particular fundamental rights and the principles of the rule of law, sovereignty of the State and the people, separation of powers and the rule of law.

In view of the public's need for easily accessible information, the Constitutional Court also actively communicates on the social network *Twitter* and its *YouTube* channel. The *Twitter* account is used to publish concise and easy-to-understand tweets with visuals to accompany the information posted. During the reporting period, the Court's *Twitter* account @Satv_tiesa had 560 posts and has accumulated 1,444 followers. The *Twitter* administration environment shows that during the reporting period, the tweets had around 1.4 million views and more than 30,000 interactions. The Court's *YouTube* channel stores all the videos prepared by the Court: hearings with the presence of participants to the cases, webinars, videos from events, video greetings and other information in an audio-visual form. The *YouTube* account has 201 followers and it has attracted 40,400 views in the reporting period.

Marking its 25th anniversary, as well as establishing a new dimension of dialogue with society, The Constitutional Court launched the podcast *Tversme*, which discusses the values enshrined in the Constitution and the role of the Constitutional Court in a democratic state governed by the rule of law. The Court's podcast *Tversme* aims to generate interest and increase knowledge about the values of a democratic state governed by the rule of law, the application of constitutional norms and the work of the Constitutional Court. The justices and staff of the Constitutional Court all participate in the production of the *Tversme* programme. The Court's podcast *Tversme* had 296 listeners during the reporting period. The first episode of the *Tversme* podcast hosted the First President of the Constitutional Court, Aivars Endziņš, and the Justice of the Constitutional Court, Gunārs Kusiņš. The second episode featured a discussion between *Koen Lenaerts*, President of the Court of Justice of the European Union, and Ineta Ziemele, former Justice and President of the Constitutional Court (2015-2020).

Information on court proceedings

For the fourth year in a row, the Constitutional Court, in cooperation with the creative team of the LV portal, produces video commentaries of judges in order to fully and comprehensively reflect the content of the adopted decisions. These videos offer justices an opportunity to set out the merits of the case, highlight the legal issues and main conclusions thereof, and explain the impact of the ruling on society. Thirteen video commentaries

were produced in the reporting period on the following cases: No 2020-26-0106 on gambling during the emergency situation; No 2020-18-01 on the prohibition for a convicted person to be a member of the board or council of a public-private capital company; No 2020-21-01 on meetings of convicted persons with other convicted persons; No 2020-19-0103 on the minimum amount of disability pension; No 2020-23-01 on negligent storage of firearm ammunition; No 2020-30-01 on the time limit for claiming compensation for non-material damages; No 2020-36-01 on the prohibition for persons punished for offences related to violence to work with children; No 2020-31-01 on the proportionality of tax fines; No 2020-40-01 on the remuneration of health care workers; No 2020-59-01 on the obligation to cover the costs of relocating a road engineering structure or technical means of traffic organisation; No 2021-03-03 on the violation of the rules on the use of natural gas; No 2020-63-01 on determining the status of a public lake; No 2018-18-01 on driver demerit points.

A press conference on court proceedings is convened to inform about the main conclusions of a ruling of the Constitutional Court. These press conferences are usually attended by the President of the Court and the justice who prepared the case. Members of the media are also invited to the press conference. Last year, press conferences were held remotely and broadcast live. All video recordings have been preserved and are available to anyone interested on the *YouTube* channel of the Constitutional Court. Five press conferences were held during the reporting period on the rulings in the following cases: No 2020-07-03 on the minimum amount of old-age pensions; No 2020-37-0106 on the administrative-territorial reform following applications by the municipality councils of Limbaži and Ikšķile; No 2020-34-03 on the amount of the fee for the partner of the heir; No 2020-43-0106 on the administrative-territorial reform following the applications of Inčukalns, Varakļāni and Garkalne municipality councils; No 2020-39-02 on the Istanbul Convention.

Current events beyond legal proceedings

At the end of December 2020, the European Movement in Latvia announced the results of the public vote "European of the Year 2020 in Latvia" at a public ceremony. The honorary title was awarded to Sanita Osipova, the President of the Constitutional Court. Ineta Ziemele, former President of the Constitutional Court and Justice of the Court of Justice of the European Union, also made it into the top 10 of the public vote.

At the beginning of January 2021, Sanita Osipova, the President of the Constitutional Court, received the Arveds Švābe Award in the History of Latvia from the Latvian Academy of Sciences for her collection of Articles "Nation, Language, Rule-of-Law State: Towards Tomorrow". In mid-January, Sanita Osipova, the President of the Constitutional Court participated in the online discussion on the role of the judiciary in safeguarding democracy, organised by the European Parliament Office in Latvia, as part of the lecture series on strengthening parliamentary democracy. The President of the Constitutional Court spoke on human

dignity as a value in a democratic state governed by the rule of law, as well as the role of the Constitutional Court in protecting it.

At the end of April, Sanita Osipova, the President of the Constitutional Court, participated in the European Union Information Providers Forum on the topic 'Recovery and Resilience'. She gave a presentation on human dignity in inclusive societies and social justice, with a particular focus on the need to include historically stigmatised groups in society.

At the beginning of May, the Constitutional Court participated in the events of the Democracy Week. Nine findings from the judgments of the Constitutional Court were published on its *Twitter* account, encouraging people to think about the fundamental values of Latvia as a democratic state governed by the rule of law. At the end of May, within the framework of the event "Gender Equality in the Turns of Time" organised by the National Library of Latvia Sectoral Literature Centre, the President of the Constitutional Court Sanita Osipova gave a lecture "Gender Equality: a Problem or a Solution" on the development of women's rights and current issues in the field of gender equality.
In mid-June, on the occasion of the 25th anniversary of the Constitutional Court, the System were awarded. The 1st Degree Badge of Honour for outstanding lifetime contribution to the justice system was awarded to Romāns Apsītis, former Justice of the Constitutional Court, and Aija Branta, former Justice of the Constitutional Court. The 2nd Degree Badge of Honour for a particularly significant contribution or achievement in strengthening the justice system was awarded to Juris Jelāgins, former Justice of the Constitutional Court, and Anita Ušacka, former Justice of the Constitutional Court. Artūrs Utināns, Jānis Pleps and Edgars Pastars, experts invited to the Constitutional Court cases, received the 3rd Degree Badge of Honour for exemplary, honest and creative performance of their duties.

In mid-August, the Constitutional Court and the Supreme Court organised a discussion "Who is Worth More: How Much is Human Dignity Worth?" at the "LAMPA" discussion festival. The discussion was attended by the President of the Constitutional Court Sanita Osipova, the President of the Department of Administrative Cases of the Supreme Court Veronika Krūmiņa, Member of the Parliament Jūlija Stepaņenko and the adolescent psychotherapist Nils Sakss Konstantinovs. The discussion was moderated by Dina Gailīte, Editor-in-Chief of "Jurista Vārds" magazine.

In early November, the Constitutional Court awards were granted for the first time to highlight special merits that have contributed to the development and sustainability of Latvia as a democratic state governed by the rule of law. The Honorary Diploma for Contribution to Strengthening Latvia as a Democratic, Legal, Socially Responsible and Sustainable State was awarded to: former President of the Constitutional Court Aivars Endziņš; former President of the Constitutional Court Gunārs Kūtris; former President of the Constitutional Court Aija Branta; former President of the Constitutional Court Aldis Laviņš; former President of the Constitutional Court Ineta Ziemele. The Honorary Diploma for Contribution to Strengthening the Rule of Law, Democracy and Fundamental Rights was awarded to: Professor, Faculty of Law, University of Latvia *Dr. iur.* Valentija Liholaja; Supreme Court Judge, lecturer at the Faculty of Law of the University of Latvia Anita Kovaļevska; Senior Editor of the Parliament Marika Saturiņa. A Certificate of Excellence was awarded to Ilma Čepāne for her contribution to strengthening the values of the Constitution of the Republic of Latvia, by her honest work in the Supreme Council, the Constitutional Court, the University of Latvia and the Parliament, contributing to the growth of an independent and democratic Latvia. A Certificate of Recognition for long-standing and selfless work at the Constitutional Court, in recognition of the faithful performance of the duties of the office, was awarded to: Adviser to the President of the Constitutional Court Sandijs Statkus; former Head of the Legal Department of the Constitutional Court Alla Spale; former Adviser to the President of the Constitutional Court Laila Jurcēna; former Adviser to the President of the Constitutional Court Dzintra Pededze; former Executive Director of the Constitutional Court Aivars Caune.

In November and December, the Constitutional Court celebrated its 25th anniversary by sharing photographs and documents reflecting the development of the institution of constitutional review and discuss the values of a democratic state governed by the rule of law on its website and on the *Twitter* account. Anyone could follow the posts telling the story of how the Constitutional Court was established and how it strengthens the constitutional order of Latvia by using the hashtag #SatversmesTiesai25. The 25th anniversary logo of the Constitutional Court was created to celebrate this significant event. The lark was chosen as the 25th anniversary symbol for the Court. In Latvian songs, the lark is a symbol of awakening, spring and morning. With its resonant chirping, this small, energetic bird awakens nature, birds and people.

On 9 December, the day of the Court's 25th anniversary, the Justices of the Constitutional Court, who have completed their term of office, united in agreement to jointly strengthen the values of the rule of law and established the Forum of Justices of the Constitutional Court. The Forum of the Justices of the Constitutional Court will act as a discussion platform for promoting the values of a democratic state governed by the rule of law, strengthening and supporting the further public work of the Justices of the Constitutional Court who have ceased to perform their duties. The Forum is open to all Justices of the Constitutional Court who have completed their term of office. On the occasion of the 25th anniversary of the Constitutional Court, a special issue of the magazine "Jurista Vārds" was published, in which judges and employees of the Constitutional Court shared their thoughts and prepared Articles on

why the Constitutional Court is the driving force of legal thought in Latvia.

Last year, the Constitutional Court also invited citizens to make use of the database of the Constitutional Court's case-law. It contains the most important findings from the judgments of the Constitutional Court, decisions on termination of court proceedings and separate opinions of judges. These findings are organised by keywords and categories. The database also provides statistical information on applicants, contested provisions, the institutions which issued thereof, as well as other information related to the Constitutional Court proceedings. The database is available after downloading and installing the *Citavi* software on your computer.

Students and teachers

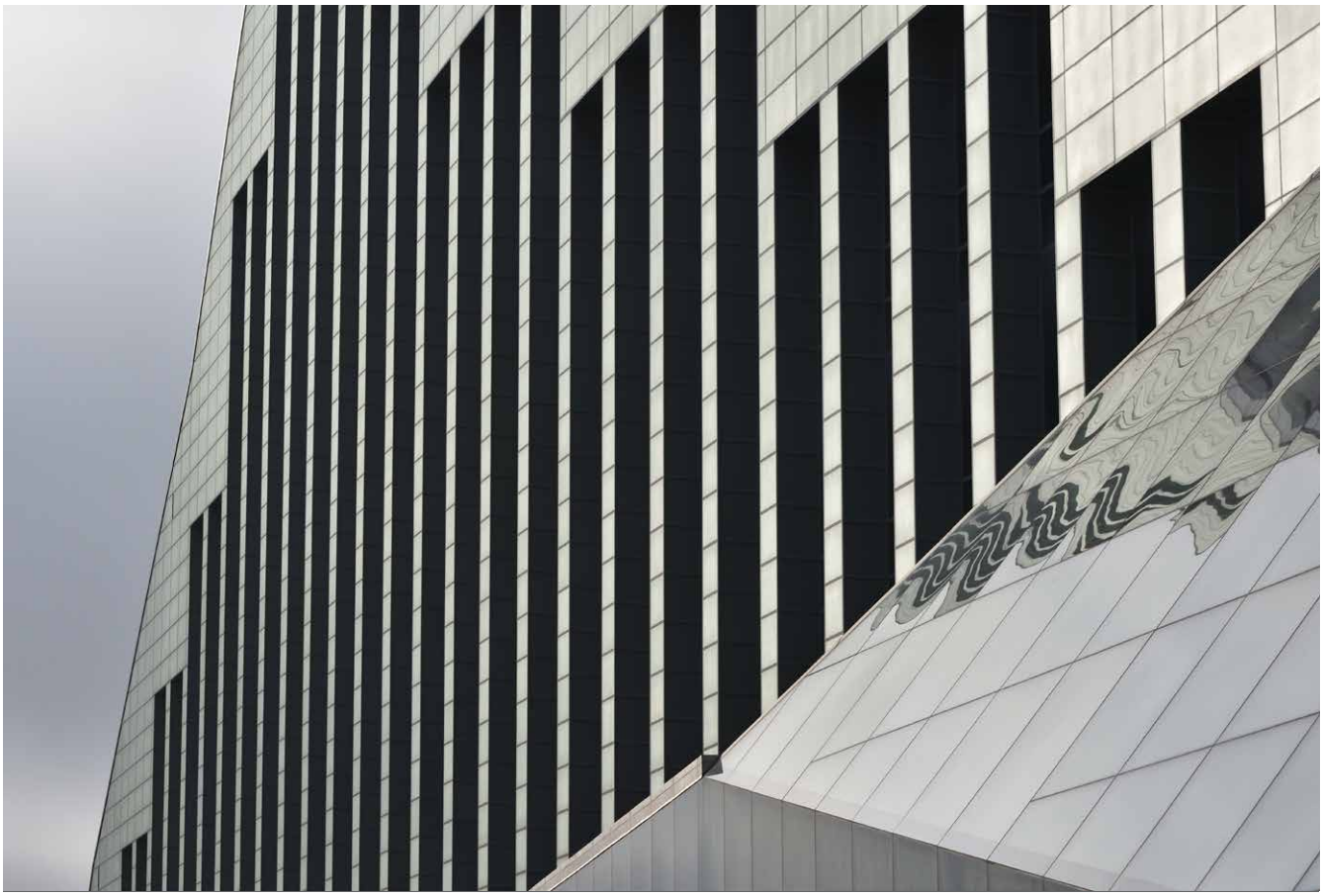
The Constitutional Court considers its dialogue with the school youth and teachers as particularly important, as it signifies an opportunity to strengthen the national consciousness in pupils and encourage participation in democratic processes by exploring and promoting the values of the Constitution.

Last year, the tradition established on the 20th anniversary of the Constitutional Court was continued, when the justices and employees of the Constitutional Court visited educational institutions to give an educational lecture on the basic principles of the state structure, the Constitution and the Constitutional Court. During the reporting period, Sanita Osipova, the President of the Constitutional Court, visited Riga Secondary School No. 13 and gave a lecture at the personal development conference for teachers "The Teacher is a Personality". Several trips of the Constitutional Court's Justices and employees to educational institutions were cancelled due to the epidemiological situation.

In February, the closing ceremony of the pupil drawing competition "Every child is equal in their rights" and an essay competition on the topic "How can I help my family and schoolmates to exercise their equal rights?" and "How does the Constitution help me to become a responsible Latvian citizen?" was held online. 67 schools entered the competition, and 239 entries were received in total. 40 pupils from 28 schools in Latvia are awarded prizes in the competition dedicated to the Constitution and the importance of equality and responsibility.

A video recap of the awards ceremony. In order to ensure that the work of the students could be viewed throughout Latvia, the Constitutional Court also published a of students" works last year. It contains 14 essays, 26 drawings, as well as opinions expressed by the Justices of Constitutional Court and cooperation partners. The catalogues were sent to the participating schools and to the largest libraries in Latvia.

In early May, as part of Democracy Week, the Constitutional Court organised a webinar for 9-12 grade pupils "Why does the Constitution Protect Human Dignity?".



In September, the Constitutional Court announced the fifth competition of students' drawings and essays on the fundamental values enshrined in the Constitution to mark the 100th anniversary of the Constitution. The Constitutional Court invited 6th grade pupils to submit drawings on the topic "The Constitution for a Happy Latvia". Students of 9th and 12th grades were invited to submit essays on the topic "Article 100 in the Centenary of the Constitution: How do Freedom of Expression and Self-Expression Make me happy and Latvia – Strong?". In October, as part of the competition, a webinar under the title "How Does Freedom of Expression Strengthen Democracy?" was organised for 9th and 12th graders.

The webinar was opened by the President of the Constitutional Court Sanita Osipova and the Minister of Education and Science Anita Muižniece. The webinar featured a presentation by Artūrs Kučs, Justice of the Constitutional Court, who explained the concept of freedom of expression and its importance in society. Madara Meļņika, Assistant Justice of the Constitutional Court, provided a detailed insight into the case-law of the Constitutional Court on the right to freedom of expression enshrined in Article 100 of the Constitution. A video recording of the webinar and the prepared presentations were sent electronically to all schools in Latvia.

Through this competition, for five years now the Constitutional Court has been stimulating pupils' interest in, and understanding of, the Constitution and its importance, as well as improving pupils' knowledge of the fundamental values of Latvia as a democratic state governed by the rule of law, familiarising pupils with the Constitutional Court and explaining its role in a state governed by the rule of law. By drawing and describing the ideas enshrined in the Constitution, every pupil can strengthen Latvia's statehood and the values of a state governed by the rule of law. All Justices of the Constitutional Court participate in evaluating the submissions. The winners of the competition, recipients of certificates of recognition and their teachers will be announced at the awards ceremony in 25 February 2022.

Law students and student organisations

To promote excellence in higher education, the Constitutional Court cooperates with higher education and scientific institutions and law students.

At the beginning of March, Sanita Osipova, the President of the Constitutional Court, participated in the conference "Human as Capital" of the Student Corporations Filister Union and the Convention of the Presidia of Latvian Students. In mid-March, Artūrs Kučs, Justice of the Constitutional Court, participated in the discussion "Fake News" organised by the Student Council of the Faculty of Law of the University of Latvia.

At the end of April, Kristaps Tamužs, Head of the Legal Department of the Constitutional Court, participated in a discussion organised by the Riga Graduate School of Law on the contemporary understanding of justice.

The Constitutional Court supports organisations that organise moot courts every year. In 2021, the justices and staff of the Constitutional Court supported the moot trial of the Professor Kārlis Dišlers XXIII Constitutional Court organised by the Professor Kārlis Dišlers Foundation. It has become a tradition that the moot court finals are played in the Constitutional Court Chamber. Last year, the final of the moot was held remotely. The Constitutional Court presented an award to Niklāvs Alberts Ozoliņš for his achievements in the moot trial of the Professor Kārlis Dišlers XXIII Constitutional Court. The judges and staff of the Constitutional Court also supported the human rights moot court organised by the Ombudsman.

Last year, the customary visits by local and foreign students to the premises of the Constitutional Court did not take place. Neither did the Constitutional Court offer internship opportunities to law students at the Legal Department.

Scholars of law

In February, the Plenary Session of the 79th International Scientific Conference on Law and eight sections on law were held at the University of Latvia, in which the Justices of the Constitutional Court participated as well. The President of the Constitutional Court, Sanita Osipova, and the Justice of the Constitutional Court, Daiga Rezevska, remotely participated in the session of the section of legal science "A Century of Legal Theory and Historical Sciences in the Latvian Legal System". In turn, the Vice-President of the Constitutional Court Aldis Laviņš made a presentation on the role of the judge and the lawyer in civil proceedings in the 21st century at the session of the law section "Civil Law in Changing Times". At the session of the international and European Union law section, Justice of the Constitutional Court Artūrs Kučs presented a paper on "Positive Obligations of the State in Exercising the Right to Freedom of Expression". In turn, Justice of the Constitutional Court Anita Rodiņa participated in the meeting of the section of legal science "Current Problems of State Law" with her paper "Appointment of a Justice of the Constitutional Court. Some questions".

At the end of August, Justice of the Constitutional Court Gunārs Kusiņš participated in the panel discussion "From the Constitution of the USSR Back to the Constitution of the Republic of Latvia" at the conference dedicated to the 30th anniversary of the restoration of Latvia's independence. Justices and staff of the Constitutional Court participated in the 17th Constitutional Law Seminar.

At the end of October, the Justices of the Constitutional Court participated in the 8th International Scientific Conference organised by the Faculty of Law of the University of Latvia "A New Legal Reality: Challenges and Solutions". President of the Constitutional Court Sanita Osipova chaired the session "*Caveant consules*: the Inviolable Minimum of rights in Emergency Circumstances". In turn, Justice of the Constitutional Court Anita Rodiņa presented papers on "Higher Education and the Constitutional Court: the Impact of Rulings on Higher Education" and "Control over the Lawfulness of Elections in a State governed by the Rule of Law". Justice of the Constitutional Court Artūrs Kučs participated in the conference with the paper "Absolute Prohibitions in the Practice of the Constitutional Court and the European Court of Human Rights".

In November, Justice of the Constitutional Court Jānis Neimanis participated in the international conference on the case-law of the Court of Justice of the European Union on direct taxation. In his turn, Justice of the Constitutional Court Artūrs Kučs participated in the international conference of the Data State Inspectorate "Personal Data - Future Perspective!". Kristaps Tamužs, Head of the Legal Department of the Constitutional Court, participated remotely in the annual conference on current human rights issues in Latvia hosted by the Riga Graduate School of Law and the Ministry of Foreign Affairs.

At the beginning of December, Justice of the Constitutional Court Artūrs Kučs participated in the discussion "Art – Freedom or the Right to Shock?" organised by the Ombudsman's Office.

Representatives of creative industries

The Constitutional Court, in cooperation with the National Library of Latvia, continued the tradition started in 2018 of organising interdisciplinary discussions on Latvia, the State, society and the fundamental values enshrined in the Constitution. *Conversations on Latvia* have become one of the most important events in the Constitutional Court's dialogue with society. In total, two *Conversations on Latvia* took place during the reporting period. In line with epidemiological safety requirements, both events were held remotely without invited guests.

In mid-June, the seventh *Conversations on Latvia* took place under the title "Human Dignity and National Sustainability". The participants' reflections were stimulated by the lines of the Latvian folk song "I walked through the silver birch grove, without breaking a single twig...". The discussion was moderated by the President of the Constitutional Court Sanita Osipova. The President of Latvia (1999-2007) Vaira Vīķe-Freiberga, Professor of the School of Banking Dzintra Atstāja, natural scientist Māris Olte and legal scholar Ilma Čepāne took part in the discussion. The final summary of the discussion was given by Ineta Ziemele, former President of the Constitutional Court and Justice of the Court of Justice of the European Union. A video recording of the conversation is available on the website of the Constitutional Court.

In early December, on the occasion of the 25th anniversary of the Constitutional Court, the eighth *Conversations on Latvia* "Is the Latvian State

Just?" was organised. This time, an exchange of ideas was encouraged on what justice is and whether an independent court is always able to assure the independence, impartiality and fairness of its decision. The conversation was attended by anthropologist Aivita Putniņa from the University of Latvia, Chairman of Daugavpils City Council Andrejs Elksniņš, host and producer of Latvian Radio 5 Elīna Baltskara, artist Kristians Brekte and Chairman of Valka Municipality Council Vents Armands Krauklis. The discussion was moderated by the President of the Constitutional Court, Sanita Osipova, and summarised by the former President of the Constitutional Court, Justice of the Court of Justice of the European Union, Ineta Ziemele. A video recording of the conversation is available on the website of the Constitutional Court.

Conferences, discussions and other news

09.12.2020
President of the Constitutional Court Sanita Osipova participates in the annual Ombudsman's Conference on current human rights issues organised in the framework of the International Human Rights Day.
Press release [in Latvian]
Tweets: 1; 2 [in Latvian]

11.12.2020
The Constitutional Court remotely organises the Constitutional Think Tank "How to Strengthen the Rule of Law to Make People Feel Safe? Increasing the Effectiveness of the Enforcement of Constitutional Court Decisions".
Press releases: 1 [in Latvian]; 2 [in Latvian]; 3 [in English]
Tweets: 1; 2; 3; 4; 5 [in Latvian]
Video [in Latvian]

12.12.2020
The Constitutional Court participates in the moot trial of the Professor Kārlis Dišlers XXIII Constitutional Court.
Tweets: 1; 2; 3 [in Latvian]
Video [in Latvian]

15.01.2021
President of the Constitutional Court Sanita Osipova takes part in a discussion on the role of the judiciary in safeguarding democracy at the European Parliament Office in Latvia.
Press release [in Latvian]
Tweets: 1; 2 [in Latvian]
Video [in Latvian]

09.02.2021
Vice-President of the Constitutional Court Aldis Laviņš gives a presentation at the 79th International Scientific

Conference of the University of Latvia.
Tweets: 1; 2 [in Latvian]

15.02.2021
The Constitutional Court remotely organises the award ceremony for the 6th grade pupils' drawing competition and the 9th and 12th grade pupils' essay competition.
Press release [in English]
Tweet [in Latvian]
Photo

26.02.2021
President of the Constitutional Court Sanita Osipova and Justice of the Constitutional Court Daiga Rezevska give presentations at the 79th International Scientific Conference of the University of Latvia.
Press release [in Latvian]
Tweets: 1; 2 [in Latvian]

18.03.2021
President of the Constitutional Court Sanita Osipova delivers a lecture "The Human Factor" at the conference "Man to Man".
Tweets: 1; 2; 3 [in Latvian]
Photo
Video [in Latvian]

27.03.2021
Justice of the Constitutional Court Artūrs Kučs, gives a presentation at the University of Latvia event "Science Café".
Tweets: 1; 2 [in Latvian]

27.03.2021
President of the Constitutional Court Sanita Osipova delivers a speech at the conference of the Student Corporations Filister Union and the Convention of the Presidia of Latvian Students.
Tweet [in Latvian]

30.03.2021
Artūrs Kučs, Justice of the Constitutional Court, gives a presentation at the discussion "Fake News" organised by the Student Council of the Faculty of Law of the University of Latvia.
Tweet [in Latvian]

14.04.2021
President of the Constitutional Court Sanita Osipova gives a presentation at the conference "Current Problems of the Legal System" at Riga Stradiņš University.
Tweet [in Latvian]

23.04.2021
President of the Constitutional Court Sanita Osipova gives a presentation at the European Union Information Providers Forum "Recovery and Resilience".
Press release [in Latvian]
Tweets: 1; 2 [in Latvian]

24.04.2021
Artūrs Kučs, Justice of the Constitutional Court, Madara Meļņika and Andris Pumpišs, Assistant Justices of the Constitutional Court, take part in a moot trial on human rights organised by the Ombudsman's Office.
Tweet [in Latvian]

29.04.2021
Kristaps Tamužs, Head of the Legal Department of the Constitutional Court, participates in a discussion at the Riga Graduate School of Law.
Tweet [in Latvian]

01.05.2021
President of the Constitutional Court Sanita Osipova and Justice of the Constitutional Court Gunārs Kusiņš lay flowers at the burial place of Jānis Čakste, President of the Constitutional Assembly and the first President of Latvia.
Tweet [in Latvian]
Photo

04.05.2021
President of the Constitutional Court Sanita Osipova, Vice-President of the Constitutional Court Aldis Laviņš, as well as Justices of the Constitutional Court Gunārs Kusiņš, Artūrs Kučs and Anita Rodiņa lay flowers at the Freedom Monument.
Tweet [in Latvian]
Photo

06.05.2021
The Constitutional Court organises a webinar for 9-12 grade pupils "Why Does the Constitution Protect Human Dignity?".
Press release [in Latvian]
Tweet [in Latvian]
Video [in Latvian]

21.05.2021
President of the Constitutional Court Sanita Osipova gives her presentation "Gender Equality: a Problem or Solution".
Press release [in Latvian]
Tweets: 1; 2; 3 [in Latvian]
Video [in Latvian]

11.06.2021
Artūrs Kučs, Justice of the Constitutional Court, takes part in a seminar at *The Hertie School* on traditional and contemporary threats to freedom of expression.
Tweet [in Latvian]

14.06.2021
President of the Constitutional Court Sanita Osipova and Vice-President of the Constitutional Court Aldis Laviņš lay flowers at the Freedom Monument to commemorate the victims of the communist genocide.
Press release [in Latvian]
Tweet [in Latvian]
Photo

16.06.2021
Justice of the Constitutional Court Artūrs Kučs, Assistant Justice Kristiāna Pētersone and Court

Consultant Anete Suharževska take part in the International Media Law Moot Court.
Tweet [in Latvian]

17.06.2021
For the seventh time, the Constitutional Court in cooperation with the National Library of Latvia organises *Conversations on Latvia* on the topic "Human Dignity and National Sustainability".
Press releases: 1; 2 [in Latvian]
Tweets: 1; 2; 3; 4; 5; 6; 7; 8 [in Latvian]
Video [in Latvian]
Photo

18.06.2021
The Constitutional Court awards the Badges of Honour of the Justice System.
Press release [in Latvian]
Tweet [in Latvian]

12.08.2021
President of the Constitutional Court Sanita Osipova lays flowers at the resting place of President of the State Gustavs Zemgals at the resting place of the statesman in Riga Forest Cemetery.
Tweet [in Latvian]
Photo

12.08.2021
President of the Constitutional Court Sanita Osipova addresses the conference dedicated to the 150th anniversary of President Gustavs Zemgals at the Riga Castle.
Tweets: 1; 2 [in Latvian]
Photo.
Video [in Latvian]

12.08.2021
President of the Constitutional Court Sanita Osipova takes part in the *Junior Achievement Latvia* discussion on the fundamental values of the state.
Tweet [in Latvian]
Video [in Latvian]

20.08.2021
The Constitutional Court and the Supreme Court of Latvia organise a discussion "Who is Worth More: How Much is Human Dignity Worth?"
Press releases: 1; 2 [in Latvian]
Tweets: 1; 2; 3; 4 [in Latvian]
Photo
Video [in Latvian]

21.08.2021
President of the Constitutional Court Sanita Osipova takes part in the discussion on the suppression of privacy and personal freedom at the "LAMPA" festival.
Tweets: 1; 2 [in Latvian]
Video [in Latvian]

21.08.2021
Justices of the Constitutional Court Gunārs Kusiņš, Jānis Neimanis and Artūrs Kučs participate in the Statehood Award ceremony.
Tweet [in Latvian]

21.08.2021
Justices of the Constitutional Court Gunārs Kusiņš,

Jānis Neimanis and Artūrs Kučs lay flowers at the Freedom Monument, commemorating the adoption of the Constitutional Law "On the Statehood of the Republic of Latvia".
Tweet [in Latvian]
Photo

23.08.2021
President of the Constitutional Court Sanita Osipova and Justice Gunārs Kusiņš participate in the conference dedicated to the 30th anniversary of the restoration of independence of the Latvian State "The Dream and its Fulfilment. Freedom and Independence".
Tweets: 1; 2; 3 [in Latvian]

25.08.2021
The Constitutional Court participates in the 17th Constitutional Law Seminar to discuss issues relevant to a democratic state governed by the rule of law.
Tweet [in Latvian]

24.09.2021
The Constitutional Court announces the fifth competition of schoolchildren's drawings and essays on the Constitution of the Republic of Latvia.
Press release [in Latvian]
Tweets: 1; 2 [in Latvian]

08.10.2021
The Constitutional Court organises a webinar for 9thand 12th grade pupils "How Does Freedom of Expression Strengthen Democracy?".
Press releases: 1; 2 [in Latvian]
Tweets: 1; 2 [in Latvian]
Video [in Latvian]

19.10.2021
President of the Constitutional Court Sanita Osipova delivers a lecture at the personal development conference for teachers "The Teacher is a Personality".
Tweet [in Latvian]

21–22.10.2021
Justices of the Constitutional Court participate in the 8th International Scientific Conference organised by the Faculty of Law of the University of Latvia "A New Legal Reality: Challenges and Solutions".
Tweet [in Latvian]

05.11.2021
Kristaps Tamužs, Head of the Legal Department of the Constitutional Court, participates in a conference of the Riga Graduate School of Law on current human rights issues in Latvia.
Tweet [in Latvian]
Video [in Latvian]

11.11.2021
The Constitutional Court commemorates and honours Latvian freedom fighters.
Press release [in Latvian]
Tweets: 1; 2 [in Latvian]

17.11.2021
The Constitutional Court grants awards.
Press release [in Latvian]
Tweet [in Latvian]

18.11.2021
The Constitutional Court congratulates Latvia on its 103rd anniversary.
Press release [in Latvian]
Tweets: 1; 2; 3; 4 [in Latvian]
Photo
Video [in Latvian]

06.12.2021
President of the Constitutional Court Sanita Osipova conducts a lesson at Riga Secondary School No. 13 on the values enshrined in the Constitution.
Tweet [in Latvian]

08.12.2021
The Constitutional Court, in cooperation with the National Library of Latvia, organises the eighth *Conversations on Latvia* on the topic "Is the Latvian State Just?".
Press releases: 1; 2 [in Latvian]
Tweets: 1; 2; 3; 4; 5; 6; 7 [in Latvian]
Video [in Latvian]

09.12.2021
Constitutional Court opens the podcast *Tversme*.
Press release [in Latvian]
Tweets: 1; 2; 3; 4 [in Latvian]

09.12.2021
The Justices of the Constitutional Court who have ceased to perform their duties establish a Forum of Justices of the Constitutional Court.
Press release [in Latvian]
Tweets: 1; 2 [in Latvian]

10.12.2021
Justice of the Constitutional Court Artūrs **06.12.2021** Kučs participates in the Ombudsman's discussion "Art – Freedom or the Right to Shock?".
Tweet [in Latvian]

22.12.2021
Koen Lenaerts, the President of the Court of Justice of the European Union, appears on the podcast *Tversme*.
Press release [in Latvian]
Tweet [in Latvian]

3.2. DIALOGUE WITH PUBLIC AUTHORITIES

In a democratic state governed by the rule of law, a constant dialogue between public authorities is highly necessary to ensure effective functioning of the mechanism of checks and balance in the relations between the branches of state power. From the perspective of the effective functioning of the state, it is important that all branches of state power perform their functions properly, do not exceed the limits of their competences and respect one another. Close cooperation between constitutional institutions is particularly important in times of emergency.

Every year, the Constitutional Court organises a meeting with all the heads of the constitutional bodies of the State, as well as the Minister for Justice. Last year, the main topics of the dialogue were the continuity of the work of the Constitutional Court in the circumstances of an emergency situation and the timely and effective enforcement of the Constitutional Court's rulings. The participants also discussed current developments in constitutional law in Latvia and other important aspects related to increasing public confidence in the judiciary and strengthening the rule of law in Latvia.

17.12.2020
The judges of the Constitutional Court meet remotely with Prime Minister Krišjānis Kariņš.
Press release [in Latvian]
Tweet [in Latvian]

22.02.2021
President of the Constitutional Court Sanita Osipova and Chief Justice of the Supreme Court Aigars Strupišs meet remotely with President of Latvia Egils Levits.
Press release [in Latvian]
Tweet [in Latvian]

11.06.2021
President of the Constitutional Court Sanita Osipova participates in the joint session of the constitutional bodies convened by the President of Latvia Egils Levits.
Tweet [in Latvian]

09.07.2021
President of the Constitutional Court Sanita Osipova meets with the Minister for Education and Science Anita Muižniece.
Press release [in Latvian]
Tweet [in Latvian]
Photo

3.3. JUDICIAL DIALOGUE IN THE EUROPEAN LEGAL SPACE

The European legal space consists of the legal areas of the Member States of the European Union, which are encompassed by the legal system of the European Union and to which the European Convention for the Protection of Human Rights and Fundamental Freedoms is directly applicable. The Constitutional Court' dialogue with other courts in Latvia, constitutional courts of other Member States of the European Union, as well as with the Court of Justice of the European Union and the European Court of Human Rights takes place within the European legal space. This judicial dialogue allows to share experience, accumulate new knowledge, engage in constructive discussions and exchange views on current issues and challenges in constitutional law not only at the national level, but also at the European and global level.

Judicial dialogue in Latvia
In April, the Constitutional Court met remotely in dialogue with all Latvian regional courts for the first time. The Justices of the Constitutional Court also met remotely with the judges of the Collegiums of Criminal Cases of the Regional Courts of Latvia.

In May, the Justices of the Constitutional Court met remotely with the judges of the Collegiums of Civil Cases of the Regional Courts of Latvia.

The competition planned for autumn, in which judges of general jurisdiction and administrative courts would be invited to apply for a six-month exchange of experience at the Constitutional Court, was not organised due to the emergency situation declared in the country.

Judicial dialogue at European and international level
In the spring of 2021, the Constitutional Court, in cooperation with the Supreme Court and the Court of Justice of the European Union, organised the webinar "The Role of the Constitutional Court in Assessing the Compatibility of Laws with European Union Law". The participants of the webinar discussed how the Constitutional Court and the Supreme Court could most effectively ensure the protection of the rights of applicants, taking into account both the European Union law and the specific scope of competence that the legislator has granted to the highest judicial institutions of the Republic of Latvia. In turn, last September, in cooperation with the Court of Justice of the European Union, the Constitutional Court organised a unique event – an international conference where, for the first time in the history of the European Union, justices from the constitutional courts of the EU Member States and the Court of Justice of the European Union gathered together to find a common understanding through constructive dialogue on how to reconcile the idea of European unity with the different constitutional traditions and national identities of the Member States. Also in 2021, the tradition of a meeting between the Justices of the Constitutional Court and a Justice of the European Court of Human Rights elected from Latvia was renewed.

In mid-September, Justice Artūrs Kučs of the Constitutional Court participated in the European Court of Human Rights seminar on the rule of law and justice in the digital age.

At the end of September, the Justices of the Constitutional Court visited the Lithuanian Constitutional Court in Vilnius to strengthen cooperation and share experience in the protection of constitutional rights and fundamental freedoms. The 16th bilateral conference of constitutional courts of Lithuania and Latvia "Challenges in the Implementation of Constitutional Complaints" was held in the framework of the visit.

During the reporting period, several bilateral and trilateral face-to-face meetings of the Constitutional Court Justices were also planned, however, these were postponed until after the end of the Covid-19 pandemic, when the overall epidemiological situation in Europe became stable.

11.03.2021
The Constitutional Court organises a public webinar on European Union law in cooperation with the Supreme Court and the Court of Justice of the European Union.
Press releases: 1; [in Latvian] 2 [in English]; 3 [in English].
Tweets: 1; 2; 3; 4 [in Latvian]
Photo

Participants of the conference co-organised by the Constitutional Court of Latvia and the Court of Justice of the European Union "EUnited in diversity: between common constitutional traditions and national identities".

30.04.2021; 07.05.2021
For the first time, the Constitutional Court meets remotely in dialogue with all regional courts in Latvia.
Press release [in Latvian]
Tweet [in Latvian]
Photo

14.05.2021
Judges of the Constitutional Court meet remotely with Judge Mārtiņš Mits of the European Court of Human Rights.
Press release [in English]
Tweet [in Latvian]
Photo

18–21.05.2021
Uldis Krastiņš, Adviser to the Constitutional Court, participates in the seminar of the French National School of Administration and the Organisation internationale de la Francophonie "Protection of the Environment: The Regulatory Approach of the European Union".
Tweet [in Latvian]

02–03.09.2021
The Constitutional Court and the Court of Justice of the European Union organise the conference "EUnited in Diversity: Between Common Constitutional Traditions and National Identities".
Press releases: 1; 2; 3 [in English]
Tweets: 23 tweets from 01.09–03.09.2021 [in Latvian]
Photo

10.09.2021
Justice of the Constitutional Court Artūrs Kučs participates in the European Court of Human Rights seminar on the rule of law and justice in the digital age.
Tweet [in Latvian]

22.09.2021
Judges and prosecutors from the European Union Member States visit the Constitutional Court on an exchange visit.
Press release [in Latvian]
Tweet [in Latvian]
Photo

30.09–01.10.2021
Judges of the Constitutional Court visit the Lithuanian Constitutional Court in Vilnius.
Press release [in English]
Tweets: 1; 2; 3 [in Latvian]
Photo

21–23.11.2021
Justice Gunārs Kusiņš participates in a meeting organised by the Court of Justice of the European Union.
Tweet [in Latvian]

03.12.2021
President of the Constitutional Court Sanita Osipova participates in the 2021 Annual Review Meeting of the Riga Regional Court.
Tweet [in Latvian]

3.4. INTERNATIONAL COOPERATION

In recent years, the Constitutional Court and its Justices have gained wide recognition at the international level – this has been facilitated by the frequent participation of the Constitutional Court Justices in various international conferences and events. Justices of the Constitutional Court are regularly invited to participate and give presentations at international conferences and forums organised abroad.

Despite the constraints caused by the Covid-19 pandemic, the Constitutional Court continued its bilateral and multilateral cooperation with established partners (the Constitutional Court of Lithuania, the Supreme Court of Estonia, the Belgian and Czech Constitutional Courts and the Federal Constitutional Court of Germany). At the same time, the Constitutional Court has initiated a dialogue with the Council of State, the Constitutional Council and the Court of Cassation of France.

At the end of February, the Justices of the Constitutional Court participated remotely in the XVIII Congress of the Conference of European Constitutional Courts.

In early October and early November, the experience exchange project "Strengthening the Capacity of the Legal Service of the Constitutional Court of Ukraine" took place at the Constitutional Court.

24–25.02.2021
Justices of the Constitutional Court participate remotely in the XVIIIth Congress of the Conference of European Constitutional Courts.
Press Release [in English]
Tweet [in Latvian]

23.04.2021
Bruno Lasserre, Vice-President of the French Council of State (*Conseil d'État*), visits the Constitutional Court.
Press release [in English]
Tweets: 1; 2 [in Latvian]
Photo

21.05.2021
President of the Constitutional Court Sanita Osipova meets the German Ambassador to Latvia *Christian Heldt*.
Press release [in English]
Tweet [in Latvian]
Photo

05–07.07.2021
President of the Constitutional Court Sanita Osipova and Justice Gunārs Kusiņš attend the international conference "Equality and the Rule of Law: the Contribution of International Courts".
Press release [in English]
Tweet [in Latvian]
Photo

12.10–24.11.2021
The Constitutional Court organises the experience exchange project "Strengthening the Capacity of the Legal Service of the Constitutional Court of Moldova".
Press releases: 1; 2; 3; 4 [in English]
Tweets: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11 [in Latvian]
Photo

15.11.2021
Justice of the Constitutional Court Jānis Neimanis participates in a conference on the case-law of the Court of Justice of the European Union on direct taxation.
Tweet [in Latvian]

16.11.2021
Justice of the Constitutional Court Artūrs Kučs participates in the international conference of the Data State Inspectorate "Personal Data – Future Perspective!".
Tweets: 1; 2

3.5. OPENING OF THE CONSTITUTIONAL COURT JUDICIAL YEAR

At the beginning of February, the third formal sitting of the Constitutional Court was held in the presence of officials from all branches of state power, which symbolically opened the new judicial year of the Constitutional Court. The formal sitting was opened by the President of the Constitutional Court, Sanita Osipova, with a report on current developments in constitutional law in Latvia. The guest of honour, President of Latvia (1999-2007) Vaira Vīķe-Freiberga, also gave a speech at the formal sitting. The heads of the constitutional bodies, as well as former Presidents of State and former Presidents of the Constitutional Court, participated remotely.

After the formal sitting, a press conference was held to present an overview of the work of the Constitutional Court in 2020. The formal sitting of the Constitutional Court and the subsequent press conference were broadcast live.

Speech by Sanita Osipova, the President of the Constitutional Court, at the opening sitting of the Constitutional Court Judicial Year on 4 February 2021.

I. Introduction

Your Excellency Mr President of the Republic of Latvia, Highly Esteemed Mr Prime Minister, Highly Esteemed Mr Chief Justice of the Supreme Court, Highly Esteemed Guest of Honour of the Constitutional Court Mrs Vīķe-Freiberga, Highly Esteemed former Presidents of the State of Latvia, Honourable former Presidents of the Constitutional Court, Ladies and Gentlemen!

One of the duties of a modern court is to engage in dialogue with society and the other branches of government. Dialogue is an integral and meaningful part of a democratic legal culture, and your participation in this formal sitting is also a contribution to the legal culture of our State. In a democratic state governed by the rule of law, constitutional bodies must work transparently and regularly account for their work to the people, because our work is done on behalf of the people. We work for the people.

Therefore, for the third time, the Constitutional Court is opening its new judicial year with a formal sitting – only this time we are meeting remotely. Our meeting is an opportunity to look at the current national trends from the point of view of the Constitutional Court – at the trends marked by the applications received by the Court, the cases initiated and tried, which show certain regularities – they highlight the areas in which the people of Latvia feel infringements of their rights and demonstrate to what extent they are ready to defend their rights in court. Therefore, today I would like to communicate the work done by the Constitutional Court in strengthening the rule of law in Latvia in 2020. I will therefore provide an overview of the Court's performance indicators, as well as the key lessons from its rulings that strengthen our democracy and the rule of law.

The composition of the Constitutional Court has changed since our last meeting. Following the departure of Ms Ineta Ziemele to perform the duties of a Justice of the Court of Justice of the European Union, I have been elected President of the Constitutional Court, while Justice Aldis Laviņš has been elected Vice-President of the Constitutional Court. Since last October, we have been operating with a small number of six judges.

II. Statistics

2020 has certainly been a year of hard work, rapid adaptation and self-improvement for the Constitutional Court.

The workload of the Constitutional Court has increased compared to 2019, both in terms of the number of applications submitted and cases examined, as well as their complexity. The year 2020 reflects the active efforts of our fellow citizens to defend their rights, as well as the trends in the development of the rule of law in Latvia.

Last year, the number of applications examined by the Constitutional Court Panels increased by 30 per cent. However, as in previous years, many applications

addressed to the Constitutional Court have been recognised as not complying with the requirements of the Constitutional Court Law, and therefore the Constitutional Court has not assessed them on their merits. Therefore, it must be concluded that, in parallel with the growing interest of citizens to apply to the Constitutional Court, we must continue to explain to the public the competence of the Constitutional Court and to help them understand how to properly prepare quality applications.

Last year, we examined 50% more cases[105] and initiated twice as many cases as in 2019.[106] Looking at who seeks our help most often, we see that around one third of cases are initiated on the basis of constitutional complaints and the other third – on the basis of court applications. This is followed by applications from local government councils and the Ombudsman.

Most of the cases were initiated to assess compliance of provisions with Article 1 (Latvia is an independent democratic republic), Article105 (right to property) and Article 101(right to participate in the work of the state and local governments) of the Constitution.

In total, 19 legal provisions were declared compliant with the Constitution, while 20 legal provisions were declared to be non-compliant.

Our cooperation with the Court of Justice of the European Union has become more active. In four cases, the Constitutional Court suspended proceedings and referred to the Court of Justice of the European Union for a preliminary ruling.

III. The quintessence

The quantitative indicators of the Constitutional Court's activity are only one reflection of its work. The statistics I have mentioned are not just dry figures. Behind each case stands a person and an alleged violation of their fundamental rights, resulting from legislation adopted or not adopted in the country. The year 2020 shows us that citizens are more and more active in applying to the Constitutional Court, thus consolidating the role of the Constitutional Court in resolving constitutional issues of importance to society, as well as contributing to the overall development of the rule of law in Latvia. It is important for us to foster mutual trust.

In the SKDS survey on public trust in the Constitutional Court conducted last year, 51% of respondents answered that they "fully trust" or "rather trust" the Constitutional Court. Moreover, there is a tendency – the higher the level of education of the respondents, the higher the trust in the Constitutional Court. This leads to the conclusion that trust is closely linked to understanding and is based on knowledge of the Constitutional Court and its role.

In a technological age permeated by targeted disinformation meant to influence public opinion, the judiciary needs to proactively reach out to the public and to the other branches of government. It is important for us that the public sees, hears and understands the judiciary – not only through our rulings, but also through a high-quality exchange of ideas on important national issues which affect us all, the values and principles of a democratic state governed by the rule of law.

The study concludes that the majority of the Latvian population is not sufficiently informed about their rights under the Constitution. The research data show that only 30% of respondents have "good" knowledge or "general, but not detailed knowledge" of the content of the Constitution. However, a great majority – 54% – admitted that they had "heard of the Constitution, but did not know anything more", while 14% said they had never heard of it. This means that the potential of civil society in Latvia to defend its rights, and thus to weed out injustice in the Latvian field of the rule of law, cannot be exploited in full. Therefore, in addition to hearing cases, the Constitutional Court continues its efforts on the national level aimed at improving the general knowledge of the public about the fundamental values enshrined in the Constitution of Latvia as a democratic state governed by the rule of law, as well as disseminating information about the Constitutional Court as one of the means of protecting these fundamental values.

The rhythm of the Constitutional Court's work was significantly affected by the emergency situation declared in the spring and the restrictions imposed to reduce the spread of Covid-19. I would like to stress that the Constitutional Court was the only constitutional court in the European Union that quickly adapted to the situation in the spring by not extending the procedural deadlines for hearing cases and by ensuring the possibility to examine cases remotely, including in public proceedings. All public hearings are held remotely, giving everyone the opportunity to follow the proceedings and watch recordings of the hearings on our *YouTube* channel. We hold press conferences to inform the public after each ruling made the participation of parties to the case, as well as on other important issues. The Court actively communicates on *Twitter*. For the third year in a row, the Constitutional Court, in cooperation with the LV portal, has been producing video commentaries of judges on the latest court decisions in order to fully and comprehensively reflect the decisions adopted.

The Court gives high value to communication with society, in particular dialogue with the media, young people in schools, academics and representatives of the creative industries.

105 During the reporting period, the Constitutional Court examined 30 cases, out of which judgments were adopted in 26 cases, and proceedings were terminated in 4 cases. In 2019, 20 cases were heard – 17 cases were adjudicated and 3 cases were dismissed.
106 In 2020, 70 cases were initiated, while 32 cases were initiated in 2019.

During the pandemic restrictions, we organised a webinar for 9-12th grade pupils on the topic "The pupil – a responsible citizen of Latvia". Classes from 66 schools took part, covering all regions of Latvia. We also organised a competition for pupils to draw and write about the rule of law. This competition was very well received. We received excellent entries and are grateful to the teachers who encouraged their students to think nationally.

In addition, the Court, in cooperation with the National Library of Latvia, ran two online "Conversations about Latvia" series, which focused on responsibility and freedom, as well as the role of personalities in the development of the country.

We hope that these examples of dialogue will inspire other constitutional bodies in Latvia, because the Constitution, like the future of our country, is common to all, and a socially responsible democratic state governed by the rule of law and is the goal which unites us.

In pursuit of this goal, in 2020, the Constitutional Court continued its dialogue with other branches of state power in order to provide the legislator and the executive power with insight into general trends in the field of protecting fundamental rights in Latvia, and to jointly ensure the highest possible standard of respect for fundamental rights in the State. For the first time, we also met bilaterally with judges of the Supreme Court to share experiences and hear the views of the judges of the Supreme Court of various legal specialisations.

Last year was also a year of strengthening the rule of law, as a number of amendments to legislation came into force to consolidate the independence of the Constitutional Court. In order to agree on the following steps to improve the effectiveness of the Constitutional Court's rulings, the Constitutional Court organised the Constitutional Ideas Think Tank, which was attended remotely by representatives of all constitutional bodies responsible for strengthening the rule of law in Latvia within their respective competences.

It is also worth noting the joint meeting of the heads of the constitutional organs of the State convened by the President of Latvia Egils Levits. The participants of the meeting engaged in an unprecedented discussion on the basic principles of functioning of the branches of state power – the legislative, executive and judiciary – in the context of the Covid-19 pandemic. Such cooperation attested to the ability of the representatives of the constitutional bodies to be united and coherent in addressing issues of importance to all Latvian citizens.

I would also like to emphasise that a year ago, the Parliament of the Republic of Latvia hosted the first discussion for Members of the Parliament on "The Role of the State Council in Legislation", jointly organised by the Constitutional Court, the Parliament and the Chancellery of the President of the Republic of Latvia. The aim was to stimulate an exchange of views on the idea of establishing an independent State Council in Latvia, which would improve the quality of the legislative procedure and foster the sustainability of the State. I truly hope that the discussion on improving the quality of legislation will continue once we have overcome the pandemic.

Despite the pandemic, the Constitutional Court has continued to not only become more visible and comprehensible in Latvia, but also to contribute to the debate in the common European legal area. One example is the close cooperation with the German Federal Constitutional Court. Last year, the two Courts held an unprecedented bilateral Constitutional Court Webinar, where we discussed long the most important constitutional issues for Europe.

For the second year in a row, the Constitutional Court organised a meeting with all diplomatic missions accredited in Latvia to inform about the role of the Constitutional Court and its achievements in strengthening the rule of law in Latvia in 2020.

The experience accumulated by the Constitutional Court has also become useful in the Eastern Partnership programme implemented by Latvia, in training lawyers of the Constitutional Court of Ukraine. This year, we will continue the tripartite dialogue initiated by the Constitutional Court with the judges of the Constitutional Court of Lithuania and the Supreme Court of Estonia. We are planning to implement the previously postponed high-level conference, which will be organised together with the Court of Justice of the European Union. It will be the first time that a direct dialogue between the CJEU and the constitutional courts of the Member States of the European Union will be established. Such a dialogue will have a massive impact on the future processes of the European Union.

IV. Recent case-law of the Constitutional Court

For 25 years now, the Constitutional Court has been developing, through its case law, an ever deeper and more comprehensive understanding of the Constitution – the legal framework which serves to develop Latvia's society and State. The Constitutional Court has been granted the power and the responsibility to ensure that its judgments promote legal stability, clarity and peace in social reality.[107]

The Constitutional Court's rulings in the past year cover a wide range of areas of law. Some of these, which provide in-depth insight into some of the fundamental values of the Constitution, could be highlighted here.

In its judgment on the case of the removal of a Member of the Parliament whose criminal prosecution has been

107 See, for example, Judgment of the Constitutional Court of 21 December 2009 in Case No 2009-43-01, Para 35.1.

approved[108], the court stressed that, in a state governed by the rule of law, the parliament plays an important role in the political debate of democracy. In their official capacity, Members of Parliament represent their constituents, raise issues of concern to them and defend their interests. The exercise of the right of deputy thus contributes to the effective functioning of democracy – the legitimation of the legislator and the plurality of views within the parliament, in accordance with the will of the sovereign. The free representative mandate provides for the exercise of a Member's rights not only independent of outside influence, but also of the influence of other Members of Parliament.

An integral part of a democratic state governed by the rule of law is the duty of parliament to protect human dignity, which places the human being as the highest value of a democratic state governed by the rule of law. The judgments in the cases on guaranteed minimum income[109], on the recognition of a person as needy[110] and on the amount of social security benefits[111] deal with similar legal issues concerning the constitutionality of the minimum amount of various social support measures. These judgments reveal and develop the principle of a socially responsible state, expand the case-law of the Constitutional Court with regard to human dignity as a fundamental right. The Court's judgments focus in particular on the fact that the State, in adopting specific regulation, has not relied on a substantiated and reasoned method for determining and granting social support measures that would enable each person to lead a life consistent with the principle of human dignity. The Court also stressed that the social support measures established by the State to ensure the minimum level of social protection affect the fundamental rights of the most vulnerable member of our society. Moreover, the Court held that conceptual questions of law in this area should be left to the legislator to decide.

In the judgment on the case regarding social insurance for persons with disability[112], the Court stated that the State itself is obliged to make (or to require others to make) reasonable adjustments to ensure that persons with disability are able to exercise their rights on an equal basis with other groups in society. The special measures to be implemented to reduce the conditions conducive to discrimination were also further analysed in the context of the principle of non-discrimination. The Court emphasised that any such special measures must be effective and aimed at achieving inclusive equality, e.g. with respect to the fair redistribution of resources and the participation of persons with disability in public procedures, in order to ensure their full inclusion in society.

Several judgments – on compensation in the event of a breach of the regulations on the use of natural gas[113], and on the total cost of consumer credit[114], – deal with different aspects of consumer protection. In a case concerning the total cost of consumer credit, the Court held that the State has the right to protect the consumer from high charges for credit. Such consumer protection regulation contributes to the stability, well-being and financial sustainability of households, and to the well-being of society as a whole. At the same time, judgments in cases on compensation in the event of a breach of the regulations on the use of natural gas concluded that the State has the right to adopt regulations aimed at preventing breaches of the rules on the use of natural gas, however, such regulations must be proportionate and ensure compliance with the principle of individualisation of the penalty, i.e. the amount of the penalty must be proportionate to the offence committed by the person in each particular case.

In the case on the language of instruction in higher education[115], the Court further developed its case law on the use of the official language and held that the State has a duty to establish a higher education system that ensures the functioning of educational institutions in the interest of society as a whole. At the same time, the right to education and scientific freedom, as laid down in the Constitution[116], does not entail the right of persons to request accreditation of study programmes in their preferred foreign language and to obtain a state-recognised higher education diploma for successful completion of such study programmes. Similarly, in the case on the language of preschool education[117], it was concluded that the right to education[118] enshrined in the Constitution does not include the right of a person to be educated in their preferred language. By regulating the use of languages in pre-school educational institutions, the legislator has ensured the right of learners belonging to a national minority to preserve and develop their identity and culture in a way that takes into account the conditions characteristic of the national minority in the historical context of Latvia.

108 Case No 2019-08-01.
109 Case No 2019-24-03.
110 Case No 2019-25-03.
111 Case No 2019-27-03.
112 Case No 2019-36-01.
113 Case No 2019-10-0103 and Case No 2019-37-0103.
114 Case No 2019-05-01.
115 Case No 2019-12-01.
116 Articles 112 and 113 of the Constitution.
117 Case No 2019-20-03.
118 First sentence of Article 112 of the Constitution.

In the case on the clarity of the concept of public official in the Criminal Law[119] , the Court further developed its case-law on the clarity of criminal law provisions. The Court held that public officials are accustomed to exercising special care in their professional activities and can therefore reasonably be expected to assess the risks associated with such activities with particular care and, accordingly, to anticipate the criminal law risks associated with their professional activities better than other persons.

The Court made an important contribution to the understanding of the state budget planning enshrined in Article 66 of the Constitution in the case regarding the education budget[120]. The Court concluded that this Article requires that the State budget fully reflects the expected State revenue and planned expenditure, and that the Cabinet of Ministers draws up a uniform and transparent State budget law and the Parliament decides on it annually. In addition, the Cabinet of Ministers is required to be frugal when drawing up the national budget. By permanently "earmarking" a certain share of significant expenditure in various laws on a long-term basis, going beyond one financial year, the Parliament takes over the competence of drafting the budget for itself, substantially restricting the respective competence of the Cabinet of Ministers. It effectively transfers the drafting of the budget from the executive to the legislative power, which is contrary to the principle of separation of powers and the right of the Saeima to decide on the state budget, referred to in the first sentence of Article 66 of the Constitution.

Finally, in the case concerning leave for the partner of the mother of the child[121], the Constitutional Court concluded that the family is a social institution based on close personal ties established in social reality, which are based on understanding and respect. There can be a *de facto* family relationship between a child and the person who cared for the child, even in the absence of a biological link or a legally recognised parent-child relationship. While close personal ties between persons do arise from the fact of their marriage or kinship, in social reality, close personal ties can also arise in other ways.

In 2020, the Constitutional Court also received several applications related to measures to limit the spread of Covid-19, and it adopted one judgement – in the case on the prohibition of the organisation of gambling during the emergency situation[122]. The Court noted, *inter alia*, that the well-being of society must be assessed from both a financial and a universal perspective.[123]

V. Reducing social exclusion and an inclusive society

Last year, we especially highlighted human dignity and the principle of good law-making. This year, I would like to highlight the need to reduce social exclusion and build an inclusive society. This is a prerequisite for creating a society which allows each of us to feel good. This necessity was already emphasised by Egils Levits, the President of Latvia, when he spoke about the fact that every member of society is of equal value.

A number of judgments adopted in 2020 are characterised by different facets of a common denominator – social exclusion, as multiple cases examined by the Constitutional Court have been related to different aspects of social exclusion. Social exclusion is linked to a lack of integration – the inability of individuals or groups to participate in the economic, social, political and cultural processes of society to the extent which is considered acceptable in that society.[124] There are barriers of various kinds that prevent individuals or groups from fully integrating into society. One of the main types of such barriers is discrimination on grounds of age, gender, disability, race, ethnic origin, economic or migration status.[125] The second group of obstacles includes difficulties that are not directly related to discrimination, such as poverty, unemployment, various addictions, criminal convictions, low levels of education and other conditions. Social exclusion is one of the most significant barriers to achieving the central promise of the UN 2030 Agenda for Sustainable Development: ensuring that no one is left behind.[126]

The phenomenon of social exclusion has been highlighted by the Covid-19 pandemic. At a time when the income of so many people is suddenly and rapidly reduced, the social support system set up by the state is of particular importance. Similarly, many services, education and simply the ability to communicate with family and friends have suddenly become available only virtually, and are thus practically denied to a significant part of society which does not have access to appropriate technology or lacks the skills to use such technology. We know that there are still families in Latvia for whom electricity is a luxury.

119 Case No 2019-22-01.

120 Case No 2019-29-01.

121 Case No 2019-33-01.

122 Judgment of the Constitutional Court of 11 December 2020 in Case No 2020-26-0106.

123 Para 17 of the Judgment.

124 Dobelniece S. Sociālā atstumtība [Social exclusion]. Nacionālā enciklopēdija, 21 September 2020. Available at: https://enciklopedija.lv/skirklis/2650; Leaving no one behind: the imperative of inclusive development. Report on the World Social Situation 2016. New York: United Nations, 2016, p. 18 Available at: https://www.un.org/esa/socdev/rwss/2016/full-report.pdf

125 Leaving no one behind: the imperative of inclusive development. Report on the World Social Situation 2016. New York: United Nations, 2016, p. 1 Available at: https://www.un.org/esa/socdev/rwss/2016/full-report.pdf

126 "*[W]e pledge that no one will be left behind*": UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, 21 October 2015, A/RES/70/1.

Reducing social exclusion contributes to the well-being of society as a whole, not just of individuals, by facilitating everyone's contribution to society. Only by ensuring that the dignity of every human being is equal to the dignity of every other human being can we build a cohesive and united society.

Last year, the Constitutional Court handed down a number of rulings that should reduce social exclusion. These include:

1) judgment in the case on the language of pre-school education[127], which stressed that positive measures are taken to make sure that children with special needs belonging to national minorities are integrated into the Latvian education system and thus into society as much as possible, learning the Latvian language to the best of their abilities;

2) judgment in the case concerning leave for the partner of the mother of a child[128], which held that, in accordance with the principle of human dignity, the State must give equal respect to members of society who, by their very nature, have personal relationships with persons of their own sex;

3) judgment in the case on benefits for parents of prematurely born children[129], where the Court reiterated the State's obligation to ensure social protection for families with children;

4) judgment in the case on the amount of social security benefits[130], where the Court emphasised that persons with disabilities are a particularly protected group of persons and the State must, *inter alia*, take special measures to ensure equal opportunities and legal freedoms for these persons;

5) judgments in cases regarding guaranteed minimum income[131] and recognition of a person as needy[132], which point to the State's obligation to ensure that every needy person can lead a life consistent with the principle of human dignity;

6) judgment in the case concerning leaving a prison temporarily to attend the funeral of a close relative[133], which focuses on measures to be taken to ensure the social rehabilitation of prisoners and to facilitate their reintegration into society as far as possible after serving their sentences.

A democratic state governed by the rule of law is designed to protect human dignity. Therefore, if a part of society is denied equal opportunities and access to a decent life, the very foundations of the state are undermined. Only in an inclusive society can the dignity of all people be safeguarded. Every person has value, which is why the state was created as a body to ensure the protection of human rights and freedoms. Not everyone for themselves, but the state for everyone. Yes, a rule of law is a complex and costly construct, because of the different structures involved in protecting and ensuring human rights. But, however expensive it may be, our small nation where almost everyone knows each other cannot afford to lose people by discriminating against them, by marginalising them, by pretending that they do not exist and that their problems are not of national importance. Because there is only one life for everyone – whether they are a senior citizen or a person with disabilities, a prisoner or a person with a criminal record, or a member of another group at risk of social exclusion. Anyone can become the minority and be subjected to stigmatisation. It is not just a question of social exclusion. The ultimate aim is that, when someone's dignity is threatened, the State should be able to respond and provide the conditions which allow that dignity to be restored and preserved.

VI. Conclusion

The Constitutional Court is not empowered to choose, on its own initiative, issues of public importance that should be addressed at a particular stage of the development of our State. At the same time, to some extent, the Constitutional Court acts as a barometer of society – the issues raised in its rulings point to directions which need the attention of both state administration authorities and society as a whole to help Latvia fully embody the merits of a democratic state governed by the rule of law. It has become very clear in 2020 that additional efforts are highly necessary for Latvian society to develop into a truly inclusive society, where everyone has full opportunities to contribute to the development of our country.

The Constitution of our State will have its 100th anniversary next year. This will be an important milestone for looking back at what we have achieved, as well as to look to the future and set new goals to strengthen Latvia as a democratic state governed by the rule of law. That is the prerequisite for exercise of fundamental rights.

At the same time, we must be aware that a democratic state governed by the rule of law is not only a goal, but also a process in which we all must take part. Only by working together – with the active participation of all branches of government and civil society – will we be able to raise and achieve an ever higher bar for the rule of law. We are therefore very pleased that our President (1999-2007), Mrs Vaira Vīķe-Freiberga, is taking part in this formal sitting. The honourable Mrs Vaira Vīķe-Freiberga has

127 Case No 2019-20-03.
128 Case No 2019-33-01.
129 Case No 2020-13-01.
130 Case No 2019-27-03.
131 Case No 2019-24-03.
132 Case No 2019-25-03.
133 Case No 2019-32-01.

made an invaluable contribution to the development of Latvia as a democratic state governed by the rule of law, and continues to do so even still. I therefore invite Mrs Vaira Vīķe-Freiberga to make her presentation at this formal hearing. Thank you!

Speech by Vaira Vīķe-Freiberga, President of the Republic of Latvia (1999-2007), at the opening sitting of the Constitutional Court Judicial Year on 4 February 2021.[134]

Your Excellency Mr President,

Highly Esteemed Mr Prime Minister,

Distinguished guests and colleagues, former Presidents Mr Zatlers and Mr Vējonis,

Honourable Mr Chief Justice of the Supreme Court,

Honourable Madam President of the Constitutional Court,

Honourable judges, former judges and former Presidents of the Constitutional Court!

I am truly honoured for this opportunity to address you at this formal sitting, as reflections on the rights of States and of people have preoccupied me throughout my life. During the eight years I served the nation as President of the State of Latvia, one of my duties was to swear in the new judges and put the chain of office on their shoulders. As I did, I always stressed the importance of the responsibilities they assume at that moment for the State, as the rule of law and a judiciary which enforces it are among the fundamental pillars of democracy. The judiciary must ensure that all the rights guaranteed to the citizens by the Constitution of the State and by the civil and criminal laws adopted by legislators over the years are respected; and that every citizen can rely on equal treatment before the courts.

It is a fundamental and paramount principle of democratic systems that the judiciary is independent, however, this does not mean that the judiciary can afford to be ineffective, unaccountable or unprofessional, let alone corrupt. Like every other member of a free profession, a judge must be subject to regular evaluations of their competency and professionalism, otherwise we risk creating an atmosphere of permissiveness and professional arbitrariness that would undermine the standing and reputation of the entire judicial system. It is detrimental to the standing of the judiciary when a judge, referring to his office as a judge, publicly condemns of specific persons without being informed of the facts of the particular situation. In these cases, where do professional ethics and the presumption of innocence go? The prestige of the courts is further damaged when they acquit people accused of serious financial crimes with striking frequency, or hand down years of suspended sentences to drug traffickers caught red-handed by the police. What is more, citizens' distrust of the justice system leads to distrust of the entire system of public administration, and that is a serious threat to the internal security and stability of the State. For this reason, the judiciary must take the lead in objectively assessing and improving its own performance, demonstrating that nothing stands above accountability for their work.

The prestige of the courts in the eyes of citizens is strongly influenced by the procedural aspects of the judicial system, including issues related to the efficiency of the Prosecution Office. It would be invaluable to know where Latvia ranks in terms of the average waiting time for cases to be heard, as well as the average time between one court hearing and the next in each case. Do other democracies share our problem that trials, even for simple cases, take more than 10 years to complete? That cases are repeatedly split, merged, split over and over, starting from zero each time? Do other countries also deliver individual cases in more than 200 volumes, where the poor judge or magistrate is forced to stand on their feet for days to read a detailed judgment out loud? Procedures can always be improved, and comparisons with other States could bear fruit here.

In the remainder of this article, I would like to dwell on the concept of justice and the rule of law at a very general level. No one will deny that the world still experiences a great deal of injustice and violence, but from a historical perspective, as regards the rights of both peoples and individuals, the last few centuries have seen enormous progress. The slogan of the Great French Revolution of 1789, *Liberté, egalité, fraternité*, includes equality, especially before the law, as a central principle between liberty and fraternity, which, of course, means social responsibility and solidarity. In his treatise *Rights of Man* (1791, 1792), Thomas *Paine* argued brilliantly against those contemporaries in England who were already quick to condemn these values. Payne stressed that every human being is entitled to inherent rights, and that these inalienable rights take precedence over political charters (and laws) adopted by society. Charters and laws can be changed at any time, and even today, in 2021, this is still being done in favour of power in many authoritarian modern systems. Payne also argued that inherited privileges (those which belonged to both the aristocracy and the nobility as large landowners) were fundamentally unjust. In his native Britain, he was accused of *seditious libel against the Crown* and convicted *in absentia* to death by hanging. He was saved from death only by his stay in France and then his move to the USA, where he continued to support the American Revolution and its Declaration of Independence. In the same year, in 1792, *A Vindication of the Rights of Woman*

134 The speech was also published in the journal "Akadēmiskā Dzīve" [Academic Life]. See: Vīķe-Freiberga V. Par likumu un taisnīgumu [On Law and Justice]. Akadēmiskā Dzīve, No 57, 2021/2022, pp. 37-41

by *Mary Wollstonecraft* was published in England, demanding rights for women and equality before the law, which unfortunately are still far from being fully recognised in the world in 2021.

In the last century, a major shift took place after the World War II with the establishment of the United Nations (UN) and, soon after, the adoption of the UN Universal Declaration of Human Rights. The end of the Cold War and the collapse of the Soviet Union made it possible to put these principles into practice in countries like Latvia, which had been oppressed and occupied by foreign powers for half a century. After a period in which the US had temporarily become the sole hegemony in the world, the debate on multilateralism as the overarching principle that should govern the international relations of states has become increasingly active. Multilateralism is invoked as a counterweight to the overly heavy global influence of one or more major hegemonies, an issue that gained particular momentum in the context of the 75th anniversary of the founding of the UN. It refers to a world order where law and justice prevail and where force and power are no longer the sole determinants of inter-state relations. This could be called democracy in international relations, and for small countries, including Latvia, such a principle is extremely attractive. Declarations of international principles do not guarantee that they will be respected in practice, but the fact that common declarations can be reached is, on its own, a serious step forward. The UN Sustainable Development Goals are also part of the global goals commonly agreed on, even if they are undermined by the ongoing Covid-19 pandemic and require greater efforts to achieve.

The rule of law and justice in each nation state are based on the principles of democracy and human rights – principles which were recognised unhurriedly. These basic principles of the rule of law have been enshrined in the constitution of each (actual or nominal) democratic State, in a comprehensive basic law (or set of legal precedents) that stands above all other laws, and which, in principle, is changed only in the case of extreme necessity. Constitutional courts, including the Constitutional Court of the Republic of Latvia, then have the substantial task of assessing whether or not the laws adopted by the legislator comply with the letter and spirit of the Constitution in force at the time. However, it is not within the power of the judiciary to change the Constitution itself, as only the Parliament or the whole body of citizens in a referendum can do so.

Since the proclamation of independence, it has been accepted and later enshrined in the Constitution that power belongs to the people, and that citizens delegate this power to their elected representatives in the Parliament, as Latvia was founded as a parliamentary republic. People's power thus, first of all, manifests as a conditional allegiance to the legislator, which acts as a mediator in choosing – with the limited but significant participation of the President of the Republic – the political forces and the specific individuals in whose hands the executive power, or rather the administration of the State in its daily manifestations, will be transferred. Latvia's parliamentary republic therefore does not have the same vertical power as presidential republics like the US or certain constitutional monarchies, where the Prime Minister is given far-reaching powers and wide discretion (as, for example, the Canadian Prime Minister is).

"The people" is not, of course, a homogeneous mass, but a collection of very different individuals who inevitably have different opinions and different interests. This is why multi-party systems have been developed that seek to adequately reflect this diversity in parliamentary debate. Political parties are not the only way for citizens to express their views and advance their interests. Around the world, so-called civil society is playing an increasingly important role, bringing together like-minded people at both national and international levels. Such organisations can have a serious impact on both political and economic processes. They can challenge authoritarian regimes or play a serious corrective role, responding to situations where the political process is too closely aligned either with economic groups or with the criminal world. In extreme cases, the people can take to the streets and even bring about the change of an unjust regime and restore democracy, as in the activation of the Popular Front in Latvia and the end of apartheid in the Republic of South Africa. In strictly authoritarian systems, demonstrations are of course repressed and their participants punished, however, modern media are increasingly effective in supporting spontaneous mass movements. Unfortunately, the same media can also spread lies and disinformation. That is why, under the influence of populist and demagogic forces, the rule of people can also be detrimental to democracy, as seen in the attack on the US Capitol on 6 January 2021.

Given the rapid pace of change in today's world, existing laws need constant updating and improvement, just as any mechanical device needs regular inspection and repair. The level of activity of modern parliaments in this respect is very different from their historical predecessors, the very first parliaments in Europe. For example, in 17th century England, during the reign of King Charles I, the king simply refused to call a parliament for 11 years (1629–1640) (at a high cost, as he ended up losing not only his power, but also his head).

Unfortunately, just because a legislator is active does not guarantee that the laws adopted will always be of good quality, or the best possible for the country. After the restoration of Latvia's independence, several highly influential parts of society benefited enormously from the years of so-called "disorderly" legislation. In later years, the EU and NATO demands on Latvia as a candidate country were of great service in persuading the Parliament of the Republic of Latvia to put in order what had long remained unresolved and disorderly. In Latvia's unicameral system, the lack of a Supreme Chamber is compensated only by the President's veto power enshrined in the Constitution. The President

therefore has to perform the functions that the Senate would have in other countries, and this provides a very important opportunity to improve the laws that, for various reasons, could be improved. The second instance which has this power is the Constitutional Court, but it can only do so when deciding whether a law is compatible with the Constitution. In other countries, such as France, the Constitutional Court is able to advise the National Assembly and the government while laws are still being drafted. As an experienced constitutional law specialist, President of Latvia Mr. Egils Levits has recently made a number of proposals on how to improve the quality of legislation and the judicial system in Latvia. I wish the Constitutional Court fruitful cooperation with the President of Latvia in these matters, with both state institutions sharing the same concern for strengthening the rule of law in our country.

One of the most important principles enshrined in the constitution of any modern democracy as the first and last expression of the rule of law is that there is one law for all, without exception, for or against any identifiable section of the people. It may sound simple, but it is not. One of the great ironies of history is that, at the very beginning of its development, this principle was, on the contrary, first applied only to narrowly defined segments of the population. The signing of the *Magna Carta* in England extended the rights of the aristocracy vis-à-vis the King, but in no way changed their privileges in their relations with the common people. When the power of parliaments slowly expanded against the supposedly God-given right of kings to absolute power, there were still privileges or lack thereof for landowners in contrast to landless people, men in contrast to women, whites in contrast to blacks as slaves, masters in contrast to serfs, Christians in contrast to Jews, and so on, and so on. Over the course of history, inclusiveness or inclusion before the law has become increasingly liberal, while more conservative forces have generally resisted this. Opposition to equality has sometimes been violent and armed, as in the US Civil War when Southern states resisted the freeing of slaves; at other times, equality was achieved through non-violent action, as in the 1960s protests against racial segregation, was still in force in the same US states. The genocide of the Jewish people by Hitler's regime, the most extreme form of racism possible, and more recently the genocide of Bosnian Muslim men and boys by the Serbian army in 1995, are undeniably an indelible stain on Europe's recent history.

The interpretation of human rights that currently prevails in modern Europe is that it does not allow any sub-group of citizens to be excluded in any way from the rights to work, education, health care and all other rights of citizens. The reality of life, however, reveals that this principle can be seen as contradicting the dogmas of several religious denominations, where, for example, a woman is not seen as an equal human being to a man since she is not entitled to serve God in the same way, or people are divided into different value categories according to their sexual orientation. Since the French Revolution, this kind of ideological contradiction can be resolved by distinguishing religion as a spiritual authority from the legitimate secular authority of the state, i.e. by separating religion from the state. In its origins, the French Revolution was, of course, openly anticlerical, as it was strongly opposed not only to the excessive secular privileges of the aristocracy, but also of the Church. However, when compulsory church fees were abolished, it became possible to introduce the Enlightenment principle of freedom of religion or conscience, which allows every citizen to freely choose whether or not to believe in God, and to worship God according to the traditions of the denomination of their choice or the traditions inherited from parents.

However, in the name of conservative moral values, extreme prejudiced, racist or populist views are often promoted, as are conspiracy theories. In Hungary and Poland, populist and anti-European parties have come to power with programmes that seriously depart from the human rights principles that have long become integral in Europe. This, of course, destabilises the European Union as a political player on the world stage. Among the older Member States, the resurgence of "nationalism" in Eastern Europe is sometimes blamed for this rift, which is understandably offensive to many Eastern Europeans, as it points to the inability of at least some Western Europeans to distinguish between legitimate nationalism and patriotism and neo-Nazism, which are completely different things. At the same time, it cannot be denied that the Latvian legislators have unfortunately led to Latvia's inclusion in the list of six European Union countries that have still not been able to ratify the Istanbul Convention and which were politely urged by the European Union institutions as late as the end of January this year to try to finally do so.

As a people that has suffered long and hard over the course of history from the denial of our human dignity and worth by other peoples, positions, which entail refusal to accept the principles of equality and apply them to all people without exception, do not suit us. In terms of prejudice, not only our children, but we ourselves, have a serious learning curve ahead of us before we are fully ready to abandon the false idea that belittling others serves to build our own self-esteem. Let us remember that we can only expect respect and justice for ourselves in a society where everyone is ready to give the same to others. Fortunately, cultivating tolerance is not as difficult as it sometimes seems. Continued growth and lifelong learning will enable us to achieve that and more!

In conclusion, I wish the Constitutional Court and its justices a successful working year, good health (especially during the prolonged pandemic) and to continue to take tireless care of the rule of law and justice in Latvia. I wish that the work of the Constitutional Court would be a model for our entire judicial system and that it will earn the recognition and respect of the entire nation!

3.6. PUBLICATIONS

This chapter summarises the publications of the Justices and employees of the Constitutional Court – books and articles in books, articles in periodicals, interviews, speeches, blog and encyclopaedia entries.

SANITA OSIPOVA

BOOKS:

Osipova S. Priekšvārds [Foreword]. Book: Pārskats par Satversmes tiesas darbu 2020 [Report on the Work of the Constitutional Court of the Republic of Latvia in 2020]. Riga: Satversmes tiesa, 2021, pp. 9–11.

Osipova S. Priekšvārds [Foreword]. Book: Rusanovs E. Versija par profesora Paula Minca dzīvi un viņa ekstraordināro krimināljustīciju [A Version on the Life of Professor Pauls Mincs and his Extraordinary Criminal Justice]. Riga: Zvērinātu advokātu birojs "Rusanovs & Partneri", 2021, pp. 12–14.

Osipova S. Priekšvārds [Foreword]. Book: Vienlīdzība un atbildība. Satversmes tiesas dialogs ar Latvijas skolu jaunatni. [Equality and Responsibility. The Constitutional Court's Dialogue with Latvian School Youth]. Riga: Satversmes tiesa, 2021, pp. 2–3.

Osipova S. Valdemārs Kalniņš (1907–1981): The Founder of Soviet Legal History in Latvia. In: Erkkilä V., Haferkamp H.-P. (Eds.) Socialism and Legal History: The Histories and Historians of Law in Socialist East Central Europe. London: Routledge, 2021, pp. 136–147.

Osipova S. Foreword. In: Report on the Work of the Constitutional Court of the Republic of Latvia in 2020. Riga: Constitutional Court of the Republic of Latvia, 2021, pp. 9–11.

Osipova S. Protection of Fundamental Human Rights in the Judicature of the Constitutional Court of the Republic of Latvia – the Criminal Law Discourse. In: Piskorsky J. (Ed.) Criminalisation: Ideas and Restrictions. Warszawa: Trybunal Konstitucyjny, 2021, pp. 271–282.

PERIODICALS:

Osipova S. Cilvēks un viņa cieņa [Humankind and Their Dignity]. Domuzīme, 2021, No. 3, pp. 56–57.

Osipova S. Latviešu valodas nozīme konstitucionālās identitātes kontekstā [The Meaning of the Latvian Language in the Context of Constitutional Identity]. Latvijas Zinātņu Akadēmijas Vēstis: A daļa, 2021, No. 4, pp. 6–12.

Osipova S. Satversmes tiesa saka paldies profesoram Kalvim Torgānam [The Constitutional Court Thanks Professor Kalvis Torgāns]. Jurista Vārds, 23.03.2021, No. 12, pp.12.

Osipova S. Sodītas personas kā valsts stigmatizēta grupa Satversmes tiesas judikatūrā [Sentenced Persons as a Stigmatised Group of the State in the Case-law of the Constitutional Court]. Socrates, 2021, No. 2, pp. 24–39.

Osipova S. Tiesu varas neatkarības titāns [The Titan of the Independence of the Judiciary]. Jurista Vārds, 17.08.2021, No. 33, pp.7.

Osipova S., Bārdiņš G. Cilvēka cieņa Satversmes tiesas judikatūrā [Human Dignity in the Case-law of the Constitutional Court]. Jurista Vārds, 07.12.2021, No 49, pp. 46–50.

Osipova S., Kučs A., Rodiņa A., Neimanis J., Rezevska D., Kusiņš G., Laviņš A. Kādu tiesību sistēmu pieprasa Satversme? [What Legal System does the Constitution Require?] Jurista Vārds, 07.12.2021, No 49, pp. 8–9.

INTERVIEWS:

Bērtule A. "Šodienas jautājums" [Question of the Day] – Sanita Osipova on the constitutionality of Covid-19 restrictions and the political independence of the Constitutional Court. An interview with S. Osipova. LTV "Šodienas jautājums", 28.12.2021. Available at: https://ltv.lsm.lv/lv/

Eipurs T. ST priekšsēdētāja: Ejot pa Saeimas gaiteņiem, novadu reforma pārcieta lielas pārmaiņas. [President of the Constitutional Court: The Administrative-Territorial Reform has Undergone Major Changes as it has Passed Through the Corridors of the Parliament]. An interview with S. Osipova. 900 sekundes / TV3, 22.06.2021. Available at: https://skaties.lv/

Gailīte D. Spriedze starp Satversmes tiesu un likumdevēju ir neizbēgama [Tension Between the Constitutional Court and the Legislator is Inevitable]. An interview with S. Osipova. Jurista Vārds, 16.02.2021, No 7, pp. 8–13.

Jurāns J. Demokrātija ir dzīva tikai, kad tauta ir atbildīga [Democracy is Alive Only if the People Act Responsibly]. An interview with S. Osipova. Tvnet.lv, 17.08.2021 Available at: https://www.tvnet.lv/

Kusiņa-Šulce L. Grāmatas ir iedvesmas avots [Books are a Source of Inspiration]. An interview with S. Osipova et al. Latvijas Avīze, 25.05.2021, No 98, pp. 13.

Laganovskis G. Valsts kļūst arvien sarežģītāka [The State is Becoming More Complex]. An interview with S. Osipova. LV portāls, 07.12.2021. Available at: http://www.lvportals.lv/

Libeka M. "Atvainojos, ja kādu esmu sāpinājusi" [I'm Sorry if I've Hurt Anyone]. An interview with S. Osipova. Latvijas Avīze, 05.01.2021, No 2, pp. 4–5.

Lūse L. Mīlestību novērtē, kad tā ir apdraudēta [Love is Appreciated When it is in Danger]. An interview with S. Osipova. Ieva, 12.05.2021, No 19, pp. 18–21.

Osipova S. Iepazīstieties: JV autore Sanita Osipova [Meet the JV Author Sanita Osipova]. Jurista Vārds, 07.12.2021, No 49, pp. 62.

Puriņa V. "Dienas personība" [Personality of the Day]: A conversation with Sanita Osipova, the President of the Constitutional Court. An interview with S. Osipova. TV24 "Dienas personība" [Personality of the Day], 22.04.2021. Available at: https://xtv.lv/rigatv24/

Puriņa V. "Dienas personība" [Personality of the Day]: A conversation with Sanita Osipova, the President of the Constitutional Court. An interview with S. Osipova. TV24 "Dienas personība", 26.05.2021. Available at: https://xtv.lv/rigatv24/

Siliņš S. Intervija ar Satversmes tiesas priekšsēdētāju Sanitu Osipovu [Interview with Sanita Osipova, the President of the Constitutional Court]. LTV "Rīta Panorāma", 03.06.2021. Available at: https://ltv.lsm.lv/lv/

Siliņš S., Abu Meri L. Satversmes tiesai – 25 [25 Years of the Constitutional Court]. An interview with S. Osipova. LTV "Rīta Panorāma", 09.12.2021. Available at: https://ltv.lsm.lv/lv/

Siliņš S., Abu Meri L. Satversmes tiesas priekšsēdētāja: Arī ārkārtējā situācijā brīvības ierobežojumi ir jāizsver [President of the Constitutional Court: Even in an Emergency, Restrictions on Freedom Must be Weighed]. An interview with S. Osipova. LTV "Rīta Panorāma", 04.02.2021. Available at: https://ltv.lsm.lv/lv/

Soņeca V. Padarīta darba sajūta [The Feeling of a Job Well Done]. An interview with S. Osipova. Jurista Vārds, 05.10.2021, No 40, pp. 6–9.

Tomsons A., Unāma E. Aktuālie spriedumi. Izvaicājam Satversmes tiesas priekšsēdētāju Sanitu Osipovu [Current Judgments. Questions and Answers with Sanita Osipova, the President of the Constitutional Court]. An interview with S. Osipova. Latvijas Radio 1 "Krustpunktā", 13.05.2021. Available at: http://lr1.lsm.lv/

Ulmanis I., Baltkalne M. Sanita Osipova: Pašapziņa un pilsoniskā drosme ir vajadzīga ikvienam [Everyone Needs Self-Confidence and Civic Courage]. An interview with S. Osipova. Latvijas Radio 1 "Monopols", 28.12.2020. Available at: http://lr1.lsm.lv/

Zīle D. Sanita Osipova skaidro Satversmes tiesas lēmumus saistībā ar novadu reformu [Sanita Osipova explains the decisions of the Constitutional Court in relation to the administrative-territorial reform]. An interview with S. Osipova. Latvijas Radio 1 "Labrīt", 15.03.2021. Available at: http://lr1.lsm.lv/

SPEECHES:

Osipova S. Apsveikums valsts svētkos Rīgā 2021. gada 1. maijā [A Greeting on the National Anniversary, Riga, 1 May 2021]. Available at: www.satv.tiesa.gov.lv/

Osipova S. Cilvēka cieņa kā Satversmes centrālā vērtība [Human Dignity as a Central Value of the Constitution]. Presentation at the Constitutional Court webinar for Latvian schools "Kāpēc Satversme aizsargā cilvēka cieņu?" [Why does the Constitution protect human dignity?] Riga, 6 May 2021. Available at: www.satv.tiesa.gov.lv/

Osipova S. Cieni savu tuvāko kā sevi pašu [Respect Your Neighbour as Yourself]. Reading at the conference "Skolotājs ir Personība" [The Teacher is a Personality], Riga, 19 October 2021. Available at: www.*YouTube*.com/

Osipova S. Discussion "Kurš vairāk vai cik vērta ir cilvēka cieņa?" [Who is Worth More: How Much is Human Dignity Worth?] at the "LAMPA" discussion festival held in Cēsis on 20 August 2021. Available at: https://www.festivalslampa.lv/

Osipova S. Discussion on the role of the Constitutional Court in strengthening parliamentary democracy in Riga, 15 January 2021. Available at: www.satv.tiesa.gov.lv/

Osipova S. Dzimumu līdztiesība: problēma vai risinājums [Gender Equality: Problem or Solution]. Presentation at the event "Dzimumu līdztiesība laikmeta griežos" [Gender Equality throughout the Changing Times] organised by the National Library of Latvia, Riga, 21 May 2021. Available at: www.satv.tiesa.gov.lv/

Osipova S. Personas brīvības korelācija ar atbildību [Correlation between Personal Freedom and Responsibility]. Section "Tiesību teorijas un vēstures zinātņu gadsimts Latvijas tiesiskajā sistēmā" [A Century of Legal Theory and History in the Latvian Legal System] of the 79th International Scientific Conference of the University of Latvia, Riga, 26 February 2021. Available at: www.*YouTube*.com/

Osipova S. Presentation at the Future Challenges Conference "Cilvēkfaktors" [The Human Factor] in Riga, 18 March 2021. Available at: www.satv.tiesa.gov.lv/

Osipova S. Greetings of Sanita Osipova, the President of the Constitutional Court, on the 103rdanniversary of the proclamation of the Republic of Latvia on 18 November 2021. Available at: www.*YouTube*.com/

Osipova S. Ticība, uzticība, pārliecība par sevi un savu valsti! [Faith, Trust, Confidence in Yourself and Your Country!] Speech at the Ombudsman's conference "Kādēļ ir grūti uzticēties valdības viedoklim un lēmumiem krīzes situācijā?" [Why is it Difficult to Trust the Opinion and Decisions of the Government in a Crisis?] Riga, 10 December 2020. Available at: https://www.*YouTube*.com

Osipova S. Opening address at the Section Tiesību teorijas un vēstures zinātņu gadsimts Latvijas tiesiskajā sistēmā" [A Century of Legal Theory and History in the Latvian Legal System] of the 79th International Scientific Conference of the University of Latvia, Riga, 26 February 2021. Available at: www.*YouTube*.com/

Osipova S. Address at the Constitutional Ideas Think Tank "Kā stiprināt tiesiskumu, lai cilvēks justos droši? Satversmes tiesas nolēmumu izpildes efektivitātes celšana" [How to Strengthen the Rule of Law to Make People Feel Safe? Improving the Effectiveness of the Enforcement of Constitutional Court Decisions], Riga, 11 December 2020. Available at: www.satv.tiesa.gov.lv/

Osipova S. Address on the day of adoption of the Constitutional Law On the Statehood of the Republic of Latvia, Riga, 21 August 2021. Available at: www.*YouTube*.com/

Osipova S. Address at the 25th anniversary of the Constitutional Court, Riga, 9 December 2021. Available at: www.satv.tiesa.gov.lv/

Osipova S. Address at the conference dedicated to the 150th anniversary of President Gustavs Zemgals, Riga, 12 August 2021. Available at: www.satv.tiesa.gov.lv/

Osipova S. Speech at the webinar "Konstitucionālās tiesas loma, vērtējot likumu atbilstību Eiropas Savienības tiesībām" [The Role of the Constitutional Court in Assessing the Compatibility of Laws with European Union Law], Riga, 11 March 2021. Available at: www.satv.tiesa.gov.lv/

Osipova S. Speech at the "2020. gada Eiropas cilvēks Latvijā" [Latvia's European of the Year 2020] award ceremony, Riga, 28 December 2020. Available at: https://www.*YouTube*.com

Osipova S. Speech at the "2021. gada Eiropas cilvēks Latvijā" [Latvia's European of the Year 2021] award ceremony, Riga, 28 December 2021. Available at: https://www.*YouTube*.com

Osipova S. Report at the formal sitting of the opening of the Constitutional Court Judicial Year, Riga, 4 February 2021. Available at: www.satv.tiesa.gov.lv/

Osipova S. Speech on the Adoption of the Constitutional Law "On the Statehood of the Republic of Latvia" Riga 21 August 2021. Available at: www.satv.tiesa.gov.lv/

ENCYCLOPAEDIA ENTRIES:

Osipova S. Cilvēka cieņa, tiesībās [Human dignity, in law]. Nacionālā enciklopēdija, 05.10.2021. Available at: https://enciklopedija.lv/

Osipova S. Pāvesta diktāti [Papal dictations]. Nacionālā enciklopēdija, 16.11.2021. Available at: https://enciklopedija.lv/

ALDIS LAVIŅŠ

BOOKS:

Laviņš A. Priekšvārds. Book: Civilprocesa likuma komentāri. II daļa: (29.–60.[1] nodaļa) [Foreword: Commentary to the Civil Procedure Law. Part II: Chapters 29–60.[1]]. Riga: Tiesu namu aģentūra, 2021, pp.22–25.

PERIODICALS:

Laviņš A. Jauni Civilprocesa likuma komentāri vairāk nekā 1300 lappušu apjomā [New Commentaries to the Civil Procedure Law on more than 1,300 pages]. Jurista Vārds, 06.07.2021, No 27, pp. 14–15.

Laviņš A. Tiesneša un advokāta lomas attīstība modernajā civilprocesā [The Development of the Role of the Judge and the Lawyer in the Modern Civil Procedure]. Jurista Vārds, 07.09.2021, No 36, pp. 6–11.

Laviņš A., Krastiņš U. Normas konstitucionālā pārbaude Satversmes tiesā un Eiropas Savienības tiesības [Constitutional Review of a Provision by the Constitutional Court and the Law of the European Union]. Jurista Vārds, 07.12.2021, No 49, pp. 25–29.

Osipova S., Kučs A., Rodiņa A., Neimanis J., Rezevska D., Kusiņš G., Laviņš A. Kādu tiesību sistēmu pieprasa Satversme [What Legal System does the Constitution Require]? Jurista Vārds, 07.12.2021, No 49, pp. 8–9.

INTERVIEWS:

Libeka M. Kā uzlabot īpašumu darījumu drošību? [How to Improve the security of Property Transactions?] An interview with A. Laviņš. Latvijas Avīze, 24.02.2021, No 38, pp. 4–5.

SPEECHES:

Laviņš A. Presentation at the webinar "Konstitucionālās tiesas loma, vērtējot likumu atbilstību Eiropas Savienības tiesībām" [The Role of the Constitutional Court in Assessing the Compatibility of Laws with European Union Law], Riga, 11 March 2021. Available at: www.satv.tiesa.gov.lv/

Laviņš A. Tiesneša un advokāta loma civilprocesā XXI gadsimtā [The Role of the Judge and the Advocate in Civil Proceedings in the XXI Century]. Section "Civiltiesības mainīgu apstākļu laikā" [Civil Law in Changing Times] of the 79th International Scientific Conference of the University of Latvia, Riga, 26 February 2021. Available at: www.*YouTube*.com/

GUNĀRS KUSIŅŠ

PERIODICALS:

Osipova S., Kučs A., Rodiņa A., Neimanis J., Rezevska D., Kusiņš G., Laviņš A. Kādu tiesību sistēmu pieprasa Satversme [What Legal System does the Constitution Require]? Jurista Vārds, 07.12.2021, No 49, pp. 8–9.

INTERVIEWS:

Laizāne S. Krimināllikuma normas par nevērīgu šaujamieroča glabāšanu [Provisions of the Criminal Law on Negligent Storage of a Firearm]. An interview with G. Kusiņš. LV portāls, 24.02.2021. Available at: https://lvportals.lv/

DAIGA REZEVSKA

BOOKS:

Rezevska D. Nacionālās tiesību avotu doktrīnas attīstība gadsimta laikā" [The Development of the Doctrine

of Sources of National Law Over the Century]. Book: Tiesības un tiesiskā vide mainīgos apstākļos [Law and the Legal Environment in a Changing Context]. Latvijas Universitātes 79. starptautiskās zinātniskās konferences rakstu krājums [Proceedings of the 79th International Scientific Conference of the University of Latvia]. Riga: LU Akadēmiskais apgāds, 2021, pp. 281–288.

Rezevska D. "Vispārējo tiesību principu saturs: atvasināšanas metodoloģija" [The Content of General Principles of Law: Methodology of Derivation] – error in the title. Tēzes [Theses]. 17. konstitucionālās tiesībpolitikas semināra rakstu krājums [Proceedings of the 17th Constitutional Law Seminar]. Riga: Publisko tiesību institūts, 2021, pp. 46–48.

Rezevska D. Kur un kā rast tiesību normas mērķi? [Where and How to Find the Aim of a Legal Provision?] Tēzes [Theses]. 17. konstitucionālās tiesībpolitikas semināra rakstu krājums [Proceedings of the 17th Constitutional Law Seminar]. Riga: Publisko tiesību institūts, 2021, pp. 78.

Rezevska D. Legislation in Latvia. In: Karpen U., Xanthaki H. (Eds.) Legislation in Europe: A Country by Country Guide. Oxford: Hart Publishing, 2021, pp. 283–298.

PERIODICALS:

Osipova S., Kučs A., Rodiņa A., Neimanis J., Rezevska D., Kusiņš G., Laviņš A. Kādu tiesību sistēmu pieprasa Satversme [What Legal System does the Constitution Require]? Jurista Vārds, 07.12.2021, No 49, pp. 8–9.

INTERVIEWS:

Laizāne S. Aizliegums sodītai personai būt valdes vai padomes loceklim publiskā kapitālsabiedrībā [Prohibition for a Convicted Person to be a Member of the Board or Council of a Public Capital Company]. An interview with D. Rezevska. LV portāls, 18.12.2020. Available at: https://lvportals.lv/

Laizāne S. Izbeigta tiesvedība par normām, kas nosaka publisku ūdeņu statusu ezeriem [Court Proceedings on the Provisions Governing the Status of Lakes as Public Waters are Terminated]. An interview with D. Rezevska. LV portāls, 18.10.2021. Available at: https://lvportals.lv/

Laizāne S. Par pārejas periodu nemantiskā kaitējuma atlīdzinājuma pieprasīšanai [On the Transitional Period for Claiming Compensation for non-Material Damage]. An interview with D. Rezevska. LV portāls, 08.03.2021. Available at: https://lvportals.lv/

Laizāne S. Satversmes tiesas spriedums par soda naudas apmēra aprēķinu un piedziņu no nodokļu maksātāja [Judgment of the Constitutional Court on the Calculation and Recovery of the Amount of a Fine from a Taxpayer]. An interview with D. Rezevska. LV portāls, 07.04.2021. Available at: https://lvportals.lv/

Laizāne S. Vai informācijas par autovadītāja soda punktiem pieejamība atbilst Satversmei [Is the Availability of Information on Driving Demerit Points Compatible with the Constitution?]. An interview with D. Rezevska. LV portāls, 16.11.2021. Available at: https://lvportals.lv/

JĀNIS NEIMANIS

PERIODICALS:

Neimanis J. Pieteikuma juridiskais pamatojums [Legal Basis of an Application]. Jurista Vārds, 07.12.2021, No 49, pp. 20–24.

Neimanis J. Tiesneša atkārtotas apstiprināšanas aizliegums Satversmes tiesā [Prohibition of Re-Appointment of a Justice at the Constitutional Court]. Jurista Vārds, 26.01.2021, No 4, pp. 21–23.

Osipova S., Kučs A., Rodiņa A., Neimanis J., Rezevska D., Kusiņš G., Laviņš A. Kādu tiesību sistēmu pieprasa Satversme [What Legal System does the Constitution Require]? Jurista Vārds, 07.12.2021, No 49, pp. 8–9.

INTERVIEWS:

Laizāne S. Liegums organizēt azartspēles Covid-19 laikā [Prohibition to Organise Gambling During Covid-19]. An interview with J. Neimanis. LV portāls, 17.05.2021. Available at: https://lvportals.lv/

Laizāne S. Vai aizliegums par vardarbīgiem nodarījumiem sodītām personām strādāt ar bērniem atbilst Satversmei. [Does the Prohibition for Persons Punished for Offences Related to Violence to Work with Children Comply with the Constitution?]. An interview with J. Neimanis. LV portāls, 29.03.2021. Available at: https://lvportals.lv/

Laizāne S. Vai 2020. gada valsts budžeta normas par mediķu atalgojuma finansējumu atbilst Satversmei [Do the 2020 State Budget Norms on the Financing of Remuneration of Medical Practitioners Comply with the Constitution?]. An interview with J. Neimanis. LV portāls, 17.05.2021. Available at: https://lvportals.lv/

ARTŪRS KUČS

BOOKS:

Kučs A., Meļņika M. Latvia. In: Kettemann M. C., Fertmann M. (Eds.) Viral Information: How States and Platforms Deal with Covid-19-related Disinformation: an Exploratory Study of 20 Countries. Hamburg: Hans-Bredow-Institut, 2020.

Kučs A., Meļņika M. Latvia. In: Kettemann M. C., Fertmann M. (Eds.) Can Platforms Cancel Politicians? How States and Platforms Deal with Private Power over Political Actors: an Exploratory Study of 15 Countries. Hamburg: Hans-Bredow-Institut, 2021.

PERIODICALS:

Kučs A., Šņepste I. Absolūti cilvēktiesību ierobežojumi Satversmes tiesas judikatūrā [Absolute Limitations of Human Rights in the Case-Law of the Constitutional Court]. Jurista Vārds, 07.12.2021, No 49, pp. 51–55.

Osipova S., Kučs A., Rodiņa A., Neimanis J., Rezevska D., Kusiņš G., Laviņš A. Kādu tiesību

sistēmu pieprasa Satversme [What Legal System does the Constitution Require]? Jurista Vārds, 07.12.2021, No 49, pp. 8–9.

INTERVIEWS:

Laizāne S. Lēmums izbeigt tiesvedību lietā par invaliditātes pensiju minimālo apmēru [Decision to Terminate Court Proceedings in the Case on the Minimum Amount of Disability Pensions]. An interview with A. Kučs. LV portāls, 12.02.2021. Available at: https://lvportals.lv/

Laizāne S. Maksājums, kas veicams dabasgāzes lietošanas noteikumu pārkāpuma gadījumā [Payment to be Made in the Event of a Breach of the Conditions for the Use of Natural Gas]. An interview with A. Kučs. LV portāls, 14.10.2021. Available at: https://lvportals.lv/

Laizāne S. Par aizliegumu tikties ar citiem notiesātajiem [On the prohibition to Meet Other Convicts]. An interview with A. Kučs. LV portāls, 18.01.2021. Available at: https://lvportals.lv/

SPEECHES:

Kučs A. Valsts pozitīvie pienākumi tiesību uz vārda brīvību īstenošana [Positive Obligations of the State in the Exercise of the Right to Freedom of Expression]. Section of International and European Union Law of the 79th International Scientific Conference of the University of Latvia, Riga, 26 February 2021. Available at: www.*YouTube*.com/

Kučs A. Speech at the online discussion "Māksla – brīvība vai tiesības šokēt?" [Art: Freedom or the Right to Shock?] organised by the Ombudsman on the occasion of the International Human Rights Day, Riga, 10 December 2021. Available at: https://m.facebook.com/

ANITA RODIŅA

BOOKS:

Rodiņa A. Ievads. Tiesības un tiesiskā vide mainīgos apstākļos Book: [Introduction. Law and the Legal Environment in a Changing Context]. Latvijas Universitātes 79. starptautiskās zinātniskās konferences rakstu krājums [Proceedings of the 79th International Scientific Conference of the University of Latvia]. Riga: LU Akadēmiskais apgāds, 2021, pp. 9.

Rodiņa A. Protection of Fundamental Human Rights during Covid-19 Pandemic: Case of Latvia. In: Trošić S. J., Gordanić J. (Eds.) International Organizations and State's Response to Covid-19. Belgrade, 2021, pp. 363–378.

Rodiņa A., Lībiņa-Egnere I. Le *e-Saeima*, l'un des premiers parlements au monde à travailler à distance. In: Cartier E., Ridard B., Toulemonde G. (Eds.) L'impact de la crise sanitaire sur le fonctionnement des parlements en Europe. Fondation Robert Schuman, 2020, pp. 81–90.

PERIODICALS:

Rodiņa A. Mūsu visu skolotājs [The Teacher of Us All]. Jurista Vārds, 23.03.2021, No 12, pp. 9.

Rodiņa A. Valsts vienotais jurista profesionālās kvalifikācijas eksāmens tuvojas... [The National Unified Professional Qualification Examination for Lawyers is coming...] Jurista Vārds, 13.04.2021, No 15, pp. 9–40.

Osipova S., Kučs A., Rodiņa A., Neimanis J., Rezevska D., Kusiņš G., Laviņš A. Kādu tiesību sistēmu pieprasa Satversme [What Legal System does the Constitution Require]? Jurista Vārds, 07.12.2021, No 49, pp. 8–9.

Rodiņa A. Appointment of the Constitutional Court Justice: Some Issues. Juridiskā zinātne / Law, No. 14, 2021, pp. 129–145.

Rodiņa A., Kārkliņa A. Constitutional Law 2018–2019. Republic of Latvia. European Review of Public Law, Vol. 32, No. 4, 2020, pp. 1499–1537.

INTERVIEWS:

Bērtule A. ST tiesnese: Likumdevējam vajadzētu vairāk ieklausīties Valsts prezidenta aicinājumos. Justice of the Constitutional Court: The Legislator Should Listen More to the Calls of the President. An interview with A. Rodiņa. Latvijas Televīzija "Šodienas jautājums" [Question of the Day], 15.03.2021. Available at: http://lsm.lv/

Labucs J. A conversation with Anita Rodiņa, Justice of the Constitutional Court TV24 "Uz Līnijas" [On the Line], 02.12.2021. Available at: https://xtv.lv/rigatv24/

Laizāne S. Pienākums segt ceļa vai satiksmes objekta pārvietošanas izmaksas [Obligation to Cover the Costs of Relocation of a Road or Traffic Object]. An interview with A. Rodiņa. LV portāls, 07.10.2021. Available at: https://lvportals.lv/

Piģēns K. Satversmes tiesas tiesneša amatā ievēlēta Anita Rodiņa [Anita Rodiņa elected to the office of Justice of the Constitutional Court]. An interview with A. Rodiņa. Jurista Vārds, 16.03.2021, No 11, pp. 6.

Ozoliņš A. Zvaigznes sastājās tieši tā. Intervija ar A. Rodiņu. [The Stars Aligned Just So. An Interview with A. Rodiņa]. Ir, 24.03.2021. Available at: https://ir.lv/

BAIBA BAKMANE

PERIODICALS:

Bakmane B., Statkus S. Termiņš konstitucionālās sūdzības iesniegšanai Satversmes tiesā [Time Limit for Submitting a Constitutional Complaint to the Constitutional Court]. Jurista Vārds, 07.12.2021, No 49, pp. 40–45.

GATIS BĀRDIŅŠ

PERIODICALS:

Osipova S., Bārdiņš G. Cilvēka cieņa Satversmes tiesas judikatūrā [Human Dignity in the Case-law of the Constitutional Court]. Jurista Vārds, 07.12.2021, No 49, pp. 46–50.

SPEECHES:

Bārdiņš G. Conversation "Administratīvā tiesvedība un tiesiska valsts" [Administrative Justice and the Rule of Law] at the "LAMPA" discussion festival in Cēsis on 21 August 2021. Available at: https://www.festivalslampa.lv/

ELĪNA CIRCENE

PERIODICALS:

Podzorova E., Circene E. Tiesas pieteikums: ģenēze, būtība un nākotnes izaicinājumi [The Court Aplication: Genesis, Essence and Future Challenges] Jurista Vārds, 07.12.2021, No 49, pp. 36–40.

KALVIS ENGĪZERS

PERIODICALS:

Engīzers K. Kam vajadzīga Latvijas valsts [Who needs the State of Latvia]? Ir, 21.10.2021. Available at: www.ir.lv/

Engīzers K. Labas likumdošanas principa ģenēze Latvijas tiesiskajā sistēmā [The Genesis of the Principle of Good Lawmaking in the Latvian Legal System]. Jurista Vārds, 07.12.2021, No 49, pp. 56–60.

BLOGS:

Engīzers K., Meļņika M. Defining the Modern Family. The Latvian Constitutional Court, the Definition of "Family", and Parliamentary Bitterness. 01.02.2021 Available at: https://verfassungsblog.de/

INGUSS KALNIŅŠ

PERIODICALS:

Suharževska A., Kalniņš I. Nozīmīgs notikums Eiropas tiesiskuma telpā [A Significant Event in the European Legal Area]. Jurista Vārds, 14.09.2021, No 37, pp. 6–7.

ULDIS KRASTIŅŠ

PERIODICALS:

Krastiņš U. Vispārējā tiesa – pamattiesību sargātāja ierobežojošo pasākumu tiesvedībās [The General Court – the Guardian of Fundamental Rights in Proceedings Concerning Restrictive Measures]. Jurista Vārds, 22.12.2020, No 51/52, pp. 54–62.

Laviņš A., Krastiņš U. Normas konstitucionālā pārbaude Satversmes tiesā un Eiropas Savienības tiesības [Constitutional Review of a Provision by the Constitutional Court and the Law of the European Union]. Jurista Vārds, 07.12.2021, No 49, pp. 25–29.

SPEECHES:

Krastiņš U. Satversme – valsts pamats [The Constitution – the Foundation of the State]. Presentation at the Constitutional Court webinar for Latvian schools "Kāpēc Satversme aizsargā cilvēka cieņu?" [Why does the Constitution protect human dignity?] Riga, 6 May 2021. Available at: www.satv.tiesa.gov.lv/

LĀSMA LIPKINA

PERIODICALS:

Lipkina L., Šenbrūna M. Tiesvedība administratīvajā tiesā – efektīvs personas pamattiesību aizsardzības līdzeklis [Administrative Court Proceedings – an Effective Means of Protection of Fundamental Personal Rights]. Jurista Vārds, 07.12.2021, No 49, pp. 29–35.

MADARA MEĻŅIKA

BOOKS:

Kučs A., Meļņika M. Latvia. In: Kettemann M. C., Fertmann M. (Eds.) Viral Information: How States and Platforms Deal with Covid-19-related Disinformation: an Exploratory Study of 20 Countries. Hamburg: Hans-Bredow-Institut, 2020.

Kučs A., Meļņika M. Latvia. In: Kettemann M. C., Fertmann M. (Eds.) Can Platforms Cancel Politicians? How States and Platforms Deal with Private Power over Political Actors: an Exploratory Study of 15 Countries. Hamburg: Hans-Bredow-Institut, 2021.

PERIODICALS:

Meļņika M. Pamatlikuma sargi sarkanās mantijās: daži svarīgākie Vācijas Federālās Konstitucionālās tiesas nolēmumi [Guardians of the Basic Law in Red Robes: Some Key Decisions of the German Federal Constitutional Court]. Jurista Vārds, 09.11.2021, No 45, pp. 16–22.

BLOGS:

Engīzers K., Meļņika M. Defining the Modern Family. The Latvian Constitutional Court, the Definition of "Family", and Parliamentary Bitterness. 01.02.2021 Available at: https://verfassungsblog.de/

DITA PLEPA

BOOKS:

Plepa D. Chapter 15. Latvia. In: Griller S., Lentsch E. (Eds.) EMU Integration and Member States' Constitutions. Oxford: Bloomsbury, 2021, pp. 379–398.

PERIODICALS:

Plepa D. Cilvēka cieņa kā juridisks pētījuma objekts [Human dignity as a Legal Object of Study]. Jurista Vārds, 03.08.2021, No 31, pp. 9–10.

Plepa D., Tamužs K. Runā Satversmes tiesa: daudzdimensionālais dialogs [The Constitutional Court Takes the Floor: A Multidimensional Dialogue]. Jurista Vārds, 07.12.2021, No 49, pp. 10–13.

INTERVIEWS:

Kropa S., Kolāte S. Laika gaitā mainījusies ģimenes un radniecības tiesiskā izpratne [Legal Understanding of Family and Kinship has Changed Over Time]. An interview with D. Plepa. Latvijas Radio 1 "Zināmais nezināmajā" [The Known in the Unknown], 09.02.2021. Available at: http://lr1.lsm.lv/

Plepa D. Iepazīstieties: JV autore Dita Plepa [Meet the JV Author Dita Plepa]. Jurista Vārds, 27.07.2021, No 30, pp. 34.

ENCYCLOPAEDIA ENTRIES:

Pleps J., Plepa D. Latvijas Republikas Satversme [Constitution of the Republic of Latvia]. Nacionālā enciklopēdija, 15.09.2021. Available at: https://enciklopedija.lv/

ELĪNA PODZOROVA

PERIODICALS:

Podzorova E., Circene E. Tiesas pieteikums: ģenēze, būtība un nākotnes izaicinājumi [The Court Aplication: Genesis, Essence and Future Challenges] Jurista Vārds, 07.12.2021, No 49, pp. 36–40.

Tamužs K., Podzorova E. Satversmes tiesas judikatūra 2017–2021: aktualitātes [Case-law Constitutional Court in 2017–2021: Topicalities]. Jurista Vārds, 07.12.2021, No 49, pp. 14–19.

ALEKSANDRS POTAIČUKS

PERIODICALS:

Potaičuks A. Pārrobežu administratīvo aktu atzīšanas pamati [Fundamentals of Recognition of Cross-Border Administrative Acts]. Latvijas Republikas Augstākās tiesas biļetens [Bulletin of the Supreme Court of the Republic of Latvia], No. 22, pp 70–71.

SANDIJS STATKUS

PERIODICALS:

Statkus S. Par ļaunprātības izpratni Būvniecības likumā [On the Understanding of Bad Faith in the Construction Law]. Jurista Vārds, 13.07.2021, No. 28, pp. 1, 8–12.

Bakmane B., Statkus S. Termiņš konstitucionālās sūdzības iesniegšanai Satversmes tiesā [Time Limit for Submitting a Constitutional Complaint to the Constitutional Court]. Jurista Vārds, 07.12.2021, No 49, pp. 40–45.

ANETE SUHARŽEVSKA

PERIODICALS:

Suharževska A., Kalniņš I. Nozīmīgs notikums Eiropas tiesiskuma telpā [A Significant Event in the European Legal Area]. Jurista Vārds, 14.09.2021, No 37, pp. 6–7.

MADARA ŠENBRŪNA

PERIODICALS:

Lipkina L., Šenbrūna M. Tiesvedība administratīvajā tiesā – efektīvs personas pamattiesību aizsardzības līdzeklis [Administrative Court Proceedings – an Effective Means of Protection of Fundamental Personal Rights]. Jurista Vārds, 07.12.2021, No 49, pp. 29–35.

IEVA ŠŅEPSTE

PERIODICALS:

Šņepste I. Vārda brīvības iepriekšēji ierobežojumi internetā: jēdziens un pieļaujamība [Prior Restraints on Freedom of Expression on the Internet: Concept and Permissibility]. Jurista Vārds, 05.01.2021, No 1, pp. 24–33.

Kučs A., Šņepste I. Absolūti cilvēktiesību ierobežojumi Satversmes tiesas judikatūrā [Absolute Limitations of Human Rights in the Case-Law of the Constitutional Court]. Jurista Vārds, 07.12.2021, No 49, pp. 51–55.

KRISTAPS TAMUŽS

BOOKS:

Tamužs K. Republic of Latvia Materials on International Law 2019. In: Mälksoo L., Ziemele I., Žalimas D. (Eds.) Baltic Yearbook of International Law, Volume 19 (2020). Leiden: Brill–Nijhoff, 2021, pp. 217–242

PERIODICALS:

Tamužs K., Podzorova E. Satversmes tiesas judikatūra 2017–2021: aktualitātes [Case-law Constitutional Court in 2017–2021: Topicalities]. Jurista Vārds, 07.12.2021, No 49, pp. 14–19.

Plepa D., Tamužs K. Runā Satversmes tiesa: daudzdimensionālais dialogs [The Constitutional Court Takes the Floor: A Multidimensional Dialogue]. Jurista Vārds, 07.12.2021, No 49, pp. 10–13.

3.7. FINDINGS FROM PUBLICATIONS

This section comprises findings from the publications referred to above. Findings on topics such as society, the State, the Constitution and the Constitutional Court are collected.

Society

A person is a product of society. Humanity can only be nurtured and preserved in society. Now and always, the most important thing is to work to support our families, our people, our country. Exactly in that order.[135]

The Soviet occupation worked purposefully and ruthlessly to subjugate and transform our society. How did we remain human in spite of all the efforts of those in power? It was due to our families who preserved the historical memory, the intellectuals who wrote between the lines, and just decent people.[136]

Personal freedoms work only if there is responsibility. Freedom is given to people on the assumption that they are rational. So freedom is exercised by rational beings who assume duties and responsibility for the consequences of their own actions. It is only within this framework that freedom functions, and that fundamental rights are built.[137]

Home detention, quarantine, is comparable to a type of punishment – house arrest. And we don't want to be punished without blame... But the need to serve society must not be seen as a punishment. Limited space and available materials can inhibit creativity, growth, emotional intelligence and personal maturity just as much as they can encourage them.[138]

Why can't humans be replaced by synthetic intelligence? Because human beings are creative and emotional. The man has a sense of humour, empathy and imagination. Human beings are social beings, and our humanity is only built up in cooperation with others.[139]

Society is a "people's house", so we must all have eyes for anyone who is struggling, so that we can help them. This is an obligation imposed on us by the Constitution.[140]

No one can give to another more than they have. No one can be given more than they can currently take.[141]

The State

When Latvia regained its independence and renewed its standing among the democratic countries, we had to redefine the concept of human dignity and enshrine it not only in case-law, but also in the legal culture of civil society, in order to place it at the heart of both State operations and relations between individuals.[142]

The State is becoming more complex, and the scope of rights are growing. The modern state regulates areas which have never been regulated before. This is

135 Osipova S. Presentation at the Future Challenges Conference "Cilvēkfaktors" [The Human Factor], 18 March 2021. Available at: www.satv.tiesa.gov.lv/

136 Libeka M. Atvainojos, ja kādu esmu sāpinājusi [I'm Sorry if I've Hurt Anyone]. An interview with S. Osipova. Latvijas Avīze, 05.01.2021, pp. 4–5.

137 Laganovskis G. Valsts kļūst arvien sarežģītāka [The State is Becoming More Complex]. An interview with S. Osipova. LV portāls, 07.12.2021. Available at: http://www.lvportals.lv/

138 Osipova S. Presentation at the Future Challenges Conference "Cilvēkfaktors" [The Human Factor], 18 March 2021. Available at: www.satv.tiesa.gov.lv/

139 Osipova S. Iepazīstieties: JV autore Sanita Osipova [Meet the JV Author Sanita Osipova]. Jurista Vārds, 07.12.2021, No 49, pp. 62.

140 Osipova S. Presentation at the Future Challenges Conference "Cilvēkfaktors" [The Human Factor], 18 March 2021. Available at: www.satv.tiesa.gov.lv/

141 Ibid.

142 Osipova S., Bārdiņš G. Cilvēka cieņa Satversmes tiesas judikatūrā [Human Dignity in the Case-law of the Constitutional Court]. Jurista Vārds, 07.12.2021, No 49, pp. 47.

because the plural, multicultural society of today is incredibly complex, and people have so many rights and freedoms. It is impossible to manage a society endowed with these rights and freedoms in any other way than through law.[143]

If we want our homeland to flourish, we need to think about how to nurture our civic consciousness.[144]

The Constitution

In a state governed by the rule of law, the subject whose rights are at the centre of attention is the human being. Henceforth comes the conviction that the State exists for the man, and not the other way around. This, in turn, leads to the conclusion that the guarantee and protection of fundamental human rights must be a central objective of the entire legal system.[145]

The Articles of the Constitution complement each other harmoniously in order to achieve a common goal, namely – to protect the fundamental value of human dignity.[146]

The Constitution requires that law be supreme (Article 1), fair (Article 6), equal and just for all (ex. Article 82) independent of others and capable of defending itself (Articles 42 and 44), generous to the strayed (Article 45), rejecting cheap populism (Articles 14, 28, 66 and 73), protecting the Latvian language and culture (Article 4), respecting fundamental rights (Article 89) – a legal system as established by the citizens of the State of Latvia (Article 2).[147]

In this time of change, the Constitution protects the legal system from accidental developments which would be incompatible with the existence of a democratic state governed by the rule of law. However, the legal system cannot exist in isolation from society. Therefore, the durability of the legal system derived from the Constitution depends, *inter alia*, on the sovereign's confidence in it.[148]

Constitutional Court

According to Article 85 of the Constitution, the Constitutional Court has the constitutional duty to ensure the supremacy of the Constitution and, therefore, the comprehensive rule of law. In each judgment, the Constitutional Court indicates the legal framework within which the priority work for the development of the Latvian State should be carried out.[149]

The Constitutional Court is an institution which helps us to achieve the result we are all striving for – to live a dignified life in a good country![150]

Certain judgments of the Constitutional Court have left a huge imprint on our entire statehood. In 25 years, the Constitutional Court has done colossal work.[151]

143 Laganovskis G. Valsts kļūst arvien sarežģītāka [The State is Becoming More Complex]. An interview with S. Osipova. LV portāls, 07.12.2021. Available at: http://www.lvportals.lv/

144 Ibid.

145 Osipova S., Kučs A., Rodiņa A., Neimanis J., Rezevska D., Kusiņš G., Laviņš A. Kādu tiesību sistēmu pieprasa Satversme? [What Legal System does the Constitution Require?] Jurista Vārds, 07.12.2021, No 49, pp. 8.

146 Libeka M. Atvainojos, ja kādu esmu sāpinājusi [I'm Sorry if I've Hurt Anyone]. An interview with S. Osipova. Latvijas Avīze, 05.01.2021., pp. 5.

147 Osipova S., Kučs A., Rodiņa A., Neimanis J., Rezevska D., Kusiņš G., Laviņš A. Kādu tiesību sistēmu pieprasa Satversme? [What Legal System does the Constitution Require?] Jurista Vārds, 07.12.2021, No 49, pp. 9.

148 Ibid, pp. 8.

149 Plepa D., Tamužs K. Runā Satversmes tiesa: daudzdimensionālais dialogs [The Constitutional Court Takes the Floor: A Multidimensional Dialogue]. Jurista Vārds, 07.12.2021, No 49, pp. 10.

150 Piģēns K. Satversmes tiesas tiesneša amatā ievēlēta Anita Rodiņa [Anita Rodiņa elected to the office of Justice of the Constitutional Court]. An interview with A. Rodiņa. Jurista Vārds, 16.03.2021, No 11, pp. 6.

151 Laganovskis G. Valsts kļūst arvien sarežģītāka [The State is Becoming More Complex]. An interview with S. Osipova. LV portāls, 07.12.2021. Available at: http://www.lvportals.lv/

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