The Procedure of the Constitutional Court: Issues to be Decided at the Stage of Initiation of a Case[1]

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The article is dedicated to the analysis of the initial stage – initiation of a case – in the procedure before the Constitutional Court as one of the types of judicial proceedings, focusing in particular upon issues that until now had not been analysed in legal science. The article reveals the competence of the Panel and the assignments sitting of the Constitutional Court in the stage of initiating a case, as well as analyses the legal nature of a decision on initiating and refusing to initiate a case. In view of current events, issues that should be decided even before initiating a case at the Constitutional Court are examined.

Keywords: procedure of the Constitutional Court, Panel of the Constitutional Court, assignments sitting, decision on initiating a case, constitutionalism.

Content

Introduction

The development of contemporary democratic and State ruled by law is closely linked to level of development of a recent concept – constitutionalism.[2] I.e., the State of the 21st century has the task to ensure sustainability of constitutionalism, as a

system of values existing within the State, encompassing constitutional regulation, legal principles and fundamental human rights. Ensuring the development of constitutionalism is not only researchers' and scholars' whim.[3] Ultimately, constitutionalism is the safeguard for societal development and the existence of the State itself.

In order for the existence and ensuring of constitutionalism not to turn solely into a political slogan and philosophical concept, effective mechanisms are necessary to ensure the existence and protection of this system of values. British philosopher and political theorist John Stuart Mill already in 1857 noted in his essay "On Liberty" that it had been possible to ensure civic or social liberty by establishing constitutional control[4]. Also nowadays scholars and practitioners of various countries have reached a consensus that constitutional courts should be recognised as being one of the most effective mechanisms for the development of constitutionalism[5]. Not in vain it has been noted that the role of constitutional court judges in the development of the constitutional law doctrine (which includes also constitutionalism) is increasing.[6] In this sense Latvia is not an exception. The Constitutional Court of the Republic of Latvia (hereinafter – the Constitutional Court) undoubtedly is the safeguard for the existence of constitutionalism in Latvia, ensuring that the constitutional institutions were acting and the power of the State was exercised in conformity with the spirit and the letter of the *Satversme* [Constitution]. of the Republic of Latvia (hereinafter – *Satversme*)[7].

The Constitutional Court in its actions has proven that it is the most significant constitutional institution in the State, because its exclusive function, the legal nature of its rulings and, in particular, its high authority determines the trends in dealing with issues of national importance and in development. The rulings by the Constitutional Court, beyond doubt, are binding, enforceable and unsurpassable[8]. During the period of existence of the Constitutional Court, in fact, no cases have been identified, where the legislator or the executive power had ignored rulings by the Constitutional Court.

Aivars Endziņš, the first President of the Constitutional Court, once noted that the there were no significant and insignificant cases for the Constitutional Court, since the outcome of each case was significant for the applicant.[9] And yet, which of the applications submitted to the Constitutional Court will become a case or constitutional judicial proceedings will be initiated is decided during the stage of initiating a case. The opinion that the submission of the application is the first stage in the process of constitutional control has been expressed in legal literature.[10] At the Constitutional Court the first procedural stage, when the provisions of Constitutional Court Law[11] are applied is the stage of initiating a case. It is a decision-taking procedure, where the Constitutional Court examines the submitted application and decides on initiating a case or refusing to initiate a case.

The authors of this article have already provided an analysis of the regulation included in Section 20(5) and Section 20(6) of Constitutional Court Law, which define the cases when the Panel has the right to refuse initiating a case, in a separate publication[12]. Therefore this article will focus upon other issues of the judicial proceedings before the Constitutional Court: singularities of the judicial proceedings, legal nature of the decisions adopted by the Panels of the Constitutional Court, as well as issues that are relevant in practice and until now have not been examined in legal science, concluding with conclusions on the characteristics of the decision favourable for the applicant – on initiating a case.

1 The procedure of the Constitutional Court – one of the types of judicial proceedings in Latvia

As envisaged by Article 85 of the *Satversme*, the Constitutional Court is an institution, which, within its jurisdiction as provided for by law, reviews cases concerning compliance of laws with the Constitution, i.e., in accordance with a certain procedural form or order. The initial intention of the legislator, considering what kind of procedure to envisage for cases at the Constitutional Court, was that the Constitutional Court could adopt its rulings by abiding by the general principles of administrative procedure and civil procedure[13], however, finally decided that special judicial proceedings where needed that would examine cases in accordance with different procedural principles. In view of the fact that the Constitutional Court adjudicates disputes regarding the compliance of a legal norm with legal norms of higher legal force[14], a special procedure for solving these disputes was established – the procedure – judicial proceedings before the Constitutional Court.[15]

It must be noted that the initial wording of Constitutional Court Law (Section 26) envisaged that the procedural order for hearing cases was defined by Constitutional Court Law and the Constitutional Court Procedure Law.[16] Transitional Provisions of Constitutional Court Law envisaged that until coming into effect of the Constitutional Court Procedure Law the procedural order for hearing cases was regulated by this (i.e., the Constitutional Court) Law and the Rules of Procedure of the Constitutional Court. Namely, the Rules of Procedure of the Constitutional Court were intended as a procedural regulation for advancing cases, elaborated by the Constitutional Court itself, – as a temporary solution and "sound foundation" for the Constitutional Court Procedure Law to be drafted[17]. However, on 30 November 2000, the legislator, by adopting law "Amendments to Constitutional Court Law", as a matter of principle, abandoned the idea to adopt the Constitutional Court Procedure Law and provided that the procedural order for adjudicating cases should be established by Constitutional Court Law and the Rules of Procedure of the Constitutional Court.[18]

Thus, regulation of the proceedings before the Constitutional Court, insofar it is not regulated by Constitutional Court Law, has been transferred into exclusive competence of the Constitutional Court itself and the proceedings before the Constitutional Court take place according to the procedural order adopted by an absolute majority vote of all Justices. However, this does not prohibit the legislator to regulate issues of judicial proceedings before the Constitutional Court and supplement this regulation within the framework of law. Whereas the Constitutional Court has the right to define its own structure and organisation of work in its Rules of Procedure (Constitutional Court Law, Section 14).

The way, in which the issues of judicial proceedings before the Constitutional Court are regulated, – sharing the competence between the legislator and the Constitutional Court, *inter alia*, determines the particularities of these judicial proceedings. Moreover, this shared competence to decide on the issues of judicial proceedings before the Constitutional Court leads to theoretical and practical reflections on the legal nature of the Rules of Procedure of the Constitutional Court.

The matters regulated by the Rules of Procedure of the Constitutional Court apply also to the applicants, since it specifies in greater detail the provisions of Constitutional Court Law. This leads to the following practical issue: are the Rules of Procedure of the Constitutional Court an external regulatory enactment? The

Constitutional Court itself has provided the following explanation – *"external regulatory enactments are binding upon an abstract circle of persons, they regulate legal relationship between, on the one hand, public law subject and, on the other hand, an individual or other law subjects"*.[19] Moreover, the term "regulatory enactments", included in Section 16(3) of Constitutional Court Law, includes both generally binding (external) and internal regulatory enactments.[20] Thus, the Constitutional Court could be asked to examine the compliance of legal norms included in its own Rules of Procedure of the Constitutional Court with norms of higher legal force. This "rant" is far from being only theoretical and concocted. Thus, for example, in April 2012 the Constitutional Court received a constitutional complaint, which, alongside various other claims, contained a request to assess also the compliance of a provision in the Rules of Procedure of the Constitutional Court (Para 67) with norms of higher legal force.[21] If a case were initiated, discussions could start, whether the Constitutional Court is not a judge in its own case. At the same time it must be noted that the compliance of the regulation on the judicial proceedings before the Constitutional Court already has been examined.[22] In accordance with Section 26(1) of Constitutional Court Law, the Constitutional Court decides on procedural issues that are not regulated in this law and the Rules of Procedure of the Constitutional Court. This regulation is a fundamental instrument of the judicial proceedings of the Constitutional Court, since it envisages discretion for the Constitutional Court in dealing with specific procedural issues. In view of the fact that the legislator, upon adopting Constitutional Court Law, has defined the limits of the Constitutional Court's discretion in deciding on procedural issues, this regulation must be interpreted systemically, in interconnection with other provisions of Constitutional Court Law, the fundamental principles of the proceedings before the Constitutional Court, as well as the principle of proportionality.

It must be noted that the wording used in Section 26 of Constitutional Court Law – "other procedural issues" – cannot be any issue or issue of any kind, but only such, which is simultaneously unregulated and procedural. I.e., the respective norm is applicable only to such issues of procedural nature, which apply to hearing a case at the Constitutional Court and which have not been dealt with by the legislator in Constitutional Court Law. The content of the words *"other […]. unregulated procedural issues"* has found an illustrative reflection in the case law of the Constitutional Court. The Constitutional Court has examined as unregulated procedural issues requests to apply such temporary measures, which are not envisaged by a regulatory enactment. For example, on 2 May 2007, after the Saeima [Parliament]. on 27 April 2007 had adopted a draft law, by which the Treaty on the State Border between Latvia and State was ratified in first reading, the Constitutional Court received an application from the members of the Saeima, requesting to stop ratification or corroboration of this treaty by the Saeima. The members of the Saeima, to substantiate their request, noted that *"[s]ince the Saeima allegedly wants to corroborate the Border Treaty before the judgement by the Constitutional Court is pronounced, the Constitutional Court should adopt a decision on the possibility of applying temporary measures, which would make effective enforcement of the judgement possible"*.[23] The Constitutional Court had to find an answer to the question, whether it had the right to stay the legislative process in the Saeima, taking into consideration the fact that *"[n]either the Satversme, nor Constitutional Court Law regulates the issue of suspending the ratification of an international treaty signed or ratified by Latvia. Neither does the Rules of Procedure of the Constitutional Court establish such regulation"*[24].

Comparatively recently, on 12 January 2012, the Constitutional Court received an application by members of the Saeima, requesting assessment of compliance of a provisions in the law on "Law on National Referendums and Initiation of Laws", a decision by the President of the State and an opinion by the Presidium of the Saeima with the norms of the *Satversme*, as well as application of temporary measures and suspending the national referendum regarding the draft law "Amendments to the *Satversme* of the Republic of Latvia"[25]. The Constitutional Court initiated a case on the basis of a concrete application and during the assignments sitting of 20 January 2012 adopted a decision regarding the possibility of suspending a national referendum as an unregulated procedural issue.[26]

As noted in both decisions adopted by the assignments sitting, examining the aforementioned requests, the fundamental question is the jurisdiction of the Constitutional Court to apply temporary measures, which are not *expressis verbis* envisaged in law. The Constitutional Court should have discretion in deciding upon such issues, because they are closely connected with the enforcement of a judgement by the Constitutional Court. The Constitutional Court's discretion to decide upon unregulated procedural issues, *inter alia*, to apply a temporary measure not directly indicated in law, is founded, since only the Constitutional Court has the responsibility to ensure that its rulings guarantee legal stability, clarity and peace in social reality[27]. In analysing the jurisdiction of the Constitutional Court to apply temporary measures, not envisaged in law, the fact that the jurisdiction of the Constitutional Court follows directly from the *Satversme* should be taken into account. To explain concisely the jurisdiction of the Constitutional Court envisaged by the *Satversme*: the Constitutional Court has the constitutional duty to ensure the supremacy of the *Satversme* and safeguarding of constitutional values. The kind of measures a constitutional institution may use to exercise its jurisdiction follows exactly from the jurisdiction of constitutional institutions. Thus, application of Section 26 of Constitutional Court Law requires using methodologically complex findings and arguments. This allows asserting that legal science is important in the development of the judicial proceedings before the Constitutional Court, as the issues of judicial proceedings before the Constitutional Court that thus far have not been dealt with require scientific analysis and a developed doctrine.

The regulation of the proceedings before the Constitutional Court basically covers the procedure of application and hearing of cases or procedural stages.[28] Namely, the process of examining a case by the Constitutional Court can be divided into subsequent stages, and it starts with the initiation of a case, followed by preparing of the case, adjudication of the case, making of the judgement, enforcement of the judgement. Since judicial proceedings can start only after a case has been initiated, the initiation of a case is a mandatory element in the judicial proceedings before the Constitutional Court.

2 The jurisdiction of the Constitutional Court Panel and the Assignments Sitting during the stage of initiating a case

Since the Constitutional Court does not have the right to initiate a case *ex officio*, an application that complies with the requirements regarding the form and the content of it set out in Constitutional Court Law and submitted by a subject having the right to apply to the Constitutional Court is a pre-condition for constitutional judicial proceedings.

Even though Constitutional Court Law indicates the initiation of a case as the first stage, there are a number of earlier stages in the proceedings before the Constitutional Court, during which the compliance of the submissions received (perceived by applicants as an application) or documents with the requirements of Constitutional Court Law is assessed.

First of all the President of the Constitutional Court assesses the compliance of submitted documents with formal requirements. Pursuant to Para 67 of the Rules of Procedure of the Constitutional Court, a document submitted by a subject, which is not referred to in Section 17 of Constitutional Court Law, as well as a document, which is evidently incompatible with the requirements that the law sets for applications, is not to be examined as an application[29]. Only if the application *prima facie* as to its form complies with the established requirements, the President of the Constitutional Court transfers it for examination by the Panel. Thus, all submitted documents are examined in something like pre-stage of initiating a case. Actually, only when the President of the Constitutional Court has transferred the submitted document for examination by the Panel, it can be considered that an application has been submitted to the Constitutional Court. Hence, not every document that is submitted to the Constitutional Court is an application. Only a document, which evidently meets the requirements of Constitutional Court Law, can be recognised as being an application. During this state the legal assessment of submitted documents is founded upon the content of the concept "evidently incompatible with requirements". Essentially, the task of the President is to establish visual conformity of the application with formal requirements.

Even though Constitutional Court Law does not define concretely this pre-stage and the aforementioned rights of the President, Constitutional Court Law, nevertheless, regulates the examination of applications, i.e., examination as to merits only such documents, which comply with the requirements of Section 18 of Constitutional Court Law. Thus, it follows from Constitutional Court Law, that only documents of high legal quality are examined in the proceedings of the Constitutional Court. The meaning and aim of this provision is rooted in the principle of procedural effectiveness and economy; i.e., documents, which are evidently incompatible with the provisions of Constitutional Court Law, are not examined as to merit by the Panels, to avoid having to prepare decisions (procedural documents) having informative meaning. The authors are of the opinion that such a pre-stage in the proceedings of the Constitutional Court is admissible, only if all reasonable doubts regarding compatibility of the submitted document with the provisions of Constitutional Court Law are construed in favour of the applicant – so as to transfer the application to the Panel. This requirement follows from the nature of judicial proceedings before the Constitutional Court – to ensure exercise and safeguarding of human rights, as well as principles and values of a democratic and state ruled by law. Thus, if an application has been submitted, expressing doubts regarding respecting the fundamental human rights or the principles of a democratic and state ruled by law, then the Constitutional Court is obliged to assess the validity of these doubts.

In the case law of the Constitutional Court letters by persons requesting transferring a criminal case for adjudication *de novo*[30] or compensating for damage inflicted upon a person's health[31] are the ones that are most frequently recognised as being evidently incompatible with the provisions of Constitutional Court Law. These issues, without doubt, do not fall within the jurisdiction of the Constitutional Court and therefore should not be examined in judicial proceedings before the

Constitutional Court. However, regulatory enactments envisage that the Constitutional Court has the obligation to answer also to such letters – to explain that the aforementioned issues do not fall within the jurisdiction of the Constitutional Court and the submission is evidently incompatible with the requirements defined in law for the application regarding an initiation of a case at the Constitutional Court.

The jurisdiction and the procedure of the Constitutional Court are continuously evolving, and to a large extent this development is defined by the insights gained in daily work.[32] Also the stage of initiating a case might have significantly, even, one might say, crucially, changed since the adoption of Constitutional Court Law.

From the adoption of Constitutional Court Law on 5 June 1996 until 1 January 2001 or during the first stage of the Constitutional Court's activities [33] the decision on initiating a case or refusing to initiate was taken by one Justice as an individual decision. The applicants (at the time – only the subjects of abstract constitutional control) could appeal the decision to refuse initiation of a case to the Constitutional Court in the composition of three judges. This procedure for examining applications could exist only because the circle of subjects having the right to submit an application to the Constitutional Court was limited and the number of submitted applications – low (until 1 July 2001 in total 33 applications had been submitted to the Constitutional Court).[34]

Of course, it must be admitted that this procedure for examining an application was slow and cumbersome. The legislator, thinking about expanding the jurisdiction of the Constitutional Court, or, to be more precise, introducing the constitutional complaint, which automatically meant a leap-like increase in the number of applications, had to consider also ways for making the stage in the procedure of the Constitutional Court, in which a decision is taken, whether a case should or should not be initiated on the grounds of the application, shorter and more effective. This was the reason why the legislator, in amending Constitutional Court Law[35], set out that applications, which comply with the requirements defined in law, should be examined and the decision on initiating a case should be taken a Panel composed of three Justices of the Constitutional Court.

A Panel is an organisational unit of the Justices of the Constitutional Court established for one year, which has been granted an exclusive function – to decide on initiating a case or refusal to initiate a case. The Panel has not been granted any other functions, because only the Constitutional Court has the right to assess compliance of the contested norm with legal norms of higher legal force. Thus, the Panel examines, whether the application as to its form and content complies with the provisions of Constitutional Court Law.[36] This assessment is reflected in the Panel's decision, which is the ground for initiating a case or refusing to initiate it. And yet, the Panel, in adopting a decision, has the right to express its considerations regarding the relevant issue, as well as to draw the applicant's attention to the findings expressed in the rulings by the Constitutional Court. For example, having examined an application submitted by a person, who was at the facility for deprivation of liberty, requesting to assess, whether fundamental rights were not violated by the fact that regulatory enactments did not set out regulation on ensuring daylight at the institutions for deprivation of liberty, the Panel in its decision not only assessed compliance of the application with Constitutional Court Law, but also noted: *"At the same time the Panel of the Constitutional Court recognizes that introduction of standards on the influx of daylight and on artificial light in regulatory enactments of Latvia would be desirable."*[37] Whereas in another decision refusing to initiate a case the

Panel noted *"The provisions of the Satversme do not prohibit making deductions even from the minimum remuneration for work or other minimum revenue of a person"*.[38] However, the authors would like to underline that the considerations expressed in the Panel's decisions may not apply to the assessment of the constitutionality of the contested legal norm.

The Panel adopts a decision at a closed sitting, usually attended only by the members of the Panel. However, Constitutional Court Law (Section 20(4)) envisages that the applicant, employees of the Constitutional Court, as well as other persons can be summoned to the sitting. As regards this regulation, it must be noted that in practice the possibility to invite the applicant to the Panel sitting is not used. The grounds for this position by the Panel can be found in the fact that the Constitutional Court has no *ex officio* rights. All facts of the case and legal substantiation must be included in the application. If the application does not contain them, it is incompatible with the provisions of Constitutional Court Law and an application like this cannot serve as the grounds for initiating a case.

The Rules of Procedure of the Constitutional Court (Para 75) envisage that the Panel (a Justice), while preparing the application for examination, if necessary, may 1) invite the applicant to provide additional explanations orally or in writing or to submit documents; 2) to request from the institution or official, who adopted the contested act, as well as from any State or local government institution, establishment or officials documents and information necessary to decide the issue of initiating a case or refusing to initiate it.[39] The aforementioned right of the Panel is to be exercised as an instrument for eliminating deficiencies in the application.

The analysis of the decisions adopted by the Panels of the Constitutional Court shows that in recent years the Panels have exercised their right to request additional documents or explanations only in a few cases. The exercise of this right could be essential in those cases, when the so-called fixed-term application has been submitted, since according to the case law of the Constitutional Court as missed term is not reinstated. However, it must be emphasized that the applicant cannot always expect that the Panel of the Constitutional Court, upon establishing ambiguities or deficiencies in the application, will request additional information. The purpose of this norm is not to give to the applicant a possibility to re-write the submitted application, but to give to the Panel the possibility to verify facts indicated in the application. For example, if a person has indicated in the application all available legal remedies have been exhausted, but has erroneously indicated the number of court ruling or has not appended to the application a copy of the final ruling, and accurate information cannot be obtained from the court information system, then the Panel may request that additional information is provided.

However, it must be admitted that it is not always clear, what kind of criteria are taken into consideration when deciding on the need to request additional explanations. Thus, for example, in the application – decision by the Department of Administrative Cases of the Supreme Court Senate (hereinafter – the Senate), which contested the provisions in the Law on Compensation for the Damages Caused by Institutions of Public Administration regarding the term, within which it was possible to claim a compensation from the State, the legal substantiation was not provided in accordance with the scheme adopted in the case law of the Constitutional Court[40]. *Prima facie* one might conclude that pursuant to the practice of the Constitutional Court Panels a decision to refuse initiation of a case should be adopted. However, the case was initiated, because the Justice, before deciding on initiating or

not initiating it, exercised the right to request the Senate to provide additional information[41] and *inter alia*, to abide by the general requirements regarding the presentation of the application and to substantiate compliance of the contested norm with the principle of proportionality.[42]

This leads to the conclusion that summoning the applicant to the sitting of the Panel or asking to provide additional explanations in writing is necessary only if a fact of the case or a claim included in the application is not sufficiently clear to the Panel, or if it has identified obvious mistakes or contradictions in the application. A Panel's decision to request to make the application more accurate will always remain controversial, as it is difficult to draw the line between making an application more accurate and supplementing it. Adding a new legal substantiation to the application, different from the one included originally, is not admissible, since active involvement of the Constitutional Court in defining the substantiation would hinder its unbiased assessment of the conformity of the respective application with the provisions of Constitutional Court Law.

To ensure to the extent possible the applicant's right to a fair court and also to exclude doubts regarding the validity of the Panel's decisions, on 10 December 2009 Constitutional Court Law was amended by adding to Section 20 Part 7^1 which provides: *"If the Panel takes a decision to refuse to initiate a case and a judge – a member of the Panel – votes against such a decision by the Panel, moreover, he or she has reasoned objections, examination of the application and the taking of a decision shall be transferred to the assignments sitting with the full composition of the Court."*[43] The aim of this regulation is to ensure comprehensive and meticulous analysis of also such applications, with regard to compliance of which or parts thereof with the provisions of Constitutional Court Law doubts have arise. Thus, for example, if the arguments that the application under review create doubt about the existence of a violation of fundamental right, but one member of the Panel holds that the doubts are unfounded and that a case should be initiated, this Justice can request examination of the application at an assignments sitting of the Constitutional Court in full membership. Thus, in some cases the decision on initiating a case or refusal to initiate a case is adopted at an assignments sitting. The authors hold that this regulation is necessary, as it ensures the possibility to conduct particularly meticulous analysis of compliance of the application with the provisions of Constitutional Court Law.

Pursuant to Constitutional Court Law the decision on initiating a case or refusal to initiate it must be adopted within a month or – with regard to complex cases – within two months as of the date of receiving the application. The results of the study conducted by the authors show that in the majority of cases the decision on initiating a case or refusal to initiate a case is adopted within one month. In 2012 a decision on extending the term of application has been adopted only with regard to ten cases[44]. Thus, there are also cases, when the Panel has to establish that *"[a]pplication is complicated. It contains a number of different claims, the jurisdiction of the Constitutional Court regarding these, as well as the legal substantiation requires in-depth analysis. In order to decide on the issue of initiating a case or refusal to initiate it the term for examining the application must be extended."*[45]

Thus, a decision on initiating a case or refusal to initiate a case can be adopted by examining the application at the sitting of a Panel of the Constitutional Court and, in some cases, also at the assignments sitting. Even though Section 20(5) and Section 20(6) of Constitutional Court Law establishes the right of the Panel of the Constitutional Court to decide on initiation of a case or refusal to initiate it, this right,

undoubtedly, is vested in the whole of the Constitutional Court, which can examine the application at an assignments sitting. Whichever of the procedures is used to examine the application and to adopt the decision, in both cases the presumption that all reasonable doubts should be construed in favour for initiating a case should be followed, since the very fact that an application has been submitted is indicative of a possible violation of fundamental rights or the principles of a democratic and state ruled by law. The Constitutional Court itself has also recognised that all doubts should be construed in favour for initiating a case, since the dispute, undoubtedly, is solved both when the contested legal norm (act) is recognised as being incompatible and when it is recognised as being compatible with a norm of higher legal force.[46]

3 The legal nature of the decision to initiate a case or refusal to initiate it

The decision to initiate a case or refusal to initiate it, which is adopted at the sitting of the Constitutional Court Panel or an assignments sitting, after examining the application, is a written procedural legal act, which provides legal assessment on compliance of the application with the provisions of Constitutional Court Law. The decisions adopted by the Panels of the Constitutional Court apply only to the addressees thereof, and the legal findings they comprise can serve only as means for interpreting fundamental rights and clarifying the content of the principles of state ruled by law.[47] I.e., the decision on initiating a case or refusal to initiate a case does not have *erga omnes* power[48], held by the judgements of the Constitutional Court and its decisions on terminating judicial proceedings.

One of the most important aspects that the applicant should take into consideration is the fact that the decision on initiating a case or refusal to initiate a case is not subject to appeal[49]. Whereas the right to submit an application is limited only by procedural rules, for example, in some cases the term for submitting an application must be abided by. This means that an application to the Constitutional Court can be submitted a number of times. I.e., if a decision to refuse initiation of a case has been adopted, then the application, improved, can be submitted repeatedly. If an application has been submitted repeatedly, then the repeated decision by the Panel cannot substantially differ from the initial decision. Thus, for example, if it is noted in the decision that the fundamental rights of the person submitting the application (constitutional complaint) have been violate, but the legal substantiation of the fact of violation has not been provided and because of this initiation of the case has been refused, then a repeated examination of the application could not lead to the conclusion that the fundamental rights had not been violated. Of course, the possibility that erroneous conclusions had been made while examining the application cannot be excluded. If it is established that in the previous decision regarding a repeatedly submitted application an erroneous conclusion has been made, it must be rectified and an explanation, why the newly adopted decision differs from the previous one, must be provided.

The fact that the submitted applications are examined by several (different) Panels also should be taken into account. However, in accordance with the provisions of Constitutional Court Law practice should be uniform. The Panels cannot, having examined applications similar as to their content, reach different conclusions. Aivars Endziņš, the former President of the Constitutional Court, has highlighted the fact the decisions adopted by the Panels differ[50], thus causing doubts about the

validity of adopted decisions. Of course, adoption of identic decisions cannot be an absolute requirement in all cases, since different facts of the case might be identified in each application, the content of legal substantiation might also differ. And yet, the clause of fair court prohibits differential treatment of persons, who are under similar actual and legal circumstances[51]. In deciding upon initiation of a case or refusal to initiate the provisions regarding "fair court" must be abided by. This conclusion, undoubtedly, applies also to the stage of initiating a case at the Constitutional Court.

Constitutional Court Law (Para 4 of Section 20(9)) envisages that only information on those decisions, on the basis of which a concrete case is initiated, must be published. However, from the vantage point of research those decisions, on the basis of which initiation of a case is refused, are the most interesting. Insights on the elements in the content of application can be found in the decisions on refusing to initiate a case. These insights may help to understand, for example, the theory of fundamental right infringement, rules on the term for submitting an application and legal substantiation. If a subject of constitutional control exercises his or her right to turn to the Constitutional Court, it is important for him or her to know and understand the norms of Constitutional Court Law or the requirements applicable to the content of application. Unfortunately, decisions on refusal to initiate a case are not published, – as noted, *inter alia*, due to the need to ensure personal data protection.

4 Other issues to be decided upon in the stage of initiating a case and before initiation of a case

Section 19^2(5) of Constitutional Court Law provides: *"Submission of a Constitutional complaint (application) shall not suspend the implementation of a court ruling except for cases when the Constitutional Court has decided otherwise."*[52] This norm, essentially, envisages the possibility of applying temporary measures in the case a constitutional complaint has been submitted. Even though Constitutional Court Law does not *expressis verbis* limit the cases, when the Constitutional Court may decide on suspending the enforcement of a court ruling, this norm must be interpreted systemically in interconnection with other norms of Constitutional Court Law, principles of judicial proceedings before the Constitutional Court, as well as general principles of law.

The insight that the Constitutional Court may suspend the enforcement of a ruling by general jurisdiction court only in exceptional or extraordinary cases has been expressed in the case law of the Constitutional Court, and the thesis has been emphasized: before it has been ruled otherwise, a ruling made by a general jurisdiction court must be presumed to be lawful[53]. The temporary measure included in Constitutional Court Law envisages suspending the enforcement of a court ruling – both a decision and a judgement. It must be emphasized that Constitutional Court Law does not envisage suspending of judicial proceedings, but only suspending the enforcement of a ruling – the final result of a stage in the respective judicial proceedings.[54] Likewise, until now the Constitutional Court has decided on applying temporary measures only if a case was initiated, or, to put it differently, initiation of a case at the Constitutional Court was a mandatory pre-requisite for applying temporary measures. The conducted analysis of applications shows that usually applicants include the request to apply temporary measures in the application regarding initiation of a case.[55] Likewise, special requests to apply temporary measures have been submitted following the initiation of a case, for example, a request to suspend

judicial proceedings in a civil case regarding examination of an insolvency administrator's application on commencing bankruptcy procedure until the pronouncement of the judgement by the Constitutional Court[56].

In practice the Constitutional Court has applied temporary measures, if it serves in reaching important aims[57] under such extraordinary circumstances, when the enforcement of a ruling by a court of general jurisdiction before the coming into force of the judgement by the Constitutional Court might render the execution of this judgement impossible.[58] Likewise, the Constitutional Court has recognised that it may apply temporary measures, if the enforcement of a court's ruling would cause significant harm to the applicant.[59] In view of the above mentioned, it can be concluded that such request to apply temporary measures as, for example, a request to apply temporary measures in order to receive dietary supplements[60], or to suspend the activities of a sworn bailiff[61], must be recognised as incompatible with the provisions of Constitutional Court Law.

As the practice of the Constitutional Court shows, a situation may also arise when the request regarding suspending the enforcement of a ruling by a general jurisdiction court must be decided immediately – even if the Panel has not yet adopted the decision on initiating a case or refusal to initiate. Thus, for example, in April 2013 the Constitutional Court received three applications requesting assessment of compatibility of the international treaty "Extradition Treaty between the United States of America and the Government of the Republic of Latvia", the law "On Extradition Treaty between the United States of America and the Government of the Republic of Latvia", as well as of two norms of Criminal Procedure Law – Section 701(2) and Section 707(2) with the norms of the *Satversme* of the Republic of Latvia and the European Convention for the Protection of Human Rights and Fundamental Freedoms.[62] Two of the submitted applications contained a request to suspend the enforcement of the decision No. IP-1 of 31 January 2013 by the Chamber of Criminal Cases of the Supreme Court of the Republic of Latvia or to suspend the applicant's extradition for being judicial proceedings abroad.[63] The applications express the opinion that immediate enforcement of the decision by a court of general jurisdiction on extradition of the applicant for judicial proceedings abroad might cause significant and irreversible infringement upon the applicant's fundamental rights enshrined in the *Satversme*.

As regards this concrete and until now – unique – example, it should be taken into consideration that the process of examining the application until the moment, when the decision on initiating a case or refusal to initiate a case is adopted can last a month or even two. However, in this particular case the Constitutional Court, on the basis of Section 89 of Constitutional Court Law, as well as in view of the need to implement measures for realising and safeguarding the applicant's fundamental rights, held that the request regarding enforcement of the court ruling should be decided upon immediately, without waiting for the Panel's decision. Therefore the Constitutional Court, responding not only to the information published in mass media[64], but also to the opinion expressed by the Ombudsman[65], convened an assignments sitting to adopt a decision regarding this request. I.e., this assignments sitting did not examine compatibility of the application with the provisions of Constitutional Court Law, but considered, whether the applicant's request to suspend the ruling by a court of general jurisdiction, had sufficient legal grounds. The reasoning of the decision adopted at this assignments sitting allows concluding: to ensure that a person's fundamental rights are not violated if the State has adopted

a decision on extraditing this person to a foreign state, a decision must be taken regarding temporary measures to ensure a standard of human rights protection, which follows both from national legal norms and international legal norms binding upon Latvia, until the moment the Constitutional Court adopts its final ruling. In this particular case the fact that the Cabinet of Ministers still had to decide on extraditing the respective person was essential. Thus, the assignments sitting of the Constitutional Court recognised that *"at present there are no grounds to suspend the enforcement of the Chamber's decision, as there are other means for preventing significant harm to the applicant's fundamental rights"*.[66] Apparently, "other means" for preventing significant harm to the applicant's fundamental rights meant the Cabinet of Ministers, which has the final say on issue of extradition. Therefore, in view of the jurisdiction of the Constitutional Court and the principle of division of power, it must be admitted that the decision by the Constitutional Court was logical – *"[t]o propose to the Cabinet of Ministers suspending adoption of the decision regarding extradition of D[.]. Č[.]. to the United States of America until the moment a Panel of the Constitutional Court has adopted a decision on initiating a case or refusal to initiate a case."*[67]

This precedent shows that with the framework of the proceedings before the Constitutional Court a need might arise to examine the issue of exercising and safeguarding the applicant's fundamental rights and to adopt a decision on it, as well as to apply temporary measures before the decision on initiating a case or refusal to initiate it has been adopted. However, it must be noted that situations like these are to be considered exceptional or extraordinary cases. The fact that there are no other legal remedies that would ensure effective enforcement of the ruling by the Constitutional Court or avoiding significant harm to the applicant's fundamental rights is of decisive significance in the application of temporary measures.

5 Decision on initiating a case

If a decision on initiating a case has been adopted, it can be concluded that the submitted application complies with the requirements of Constitutional Court Law. I.e., the claim included in the application falls within the jurisdiction of the Constitutional Court, the application contains facts of the case and provides legal substantiation for incompatibility of the contested norm with a norm of higher legal force, and the submitted application also complies with other provisions of Constitutional Court Law.

The analysis of the case law of the Constitutional Court leads to the conclusion: decisions on initiating a case are formal – they do not contain as well-considered analysis of the application's content and form as in the decisions on refusing to initiate a case at the Constitutional Court. I.e., the decision on initiating a case reflects the requirements of Constitutional Court Law and establishes that the application complies with them[68]. The authors have already noted that since 2009 the decisions by the Panel on refusal to initiate a case follow a uniform methodology for assessing an application[69], based upon the "mirror principle": compliance with Section 20(5) of the Constitutional Court Law, which contains the provisions for refusal to initiate a case[70], is assessed, and in the case of a constitutional complaint applying also the provisions of Section 20(6) of Constitutional Court Law.[71]

The wording "complies with other provisions of Constitutional Court Law" is frequently used in decisions on initiating a case.[72] I.e., the analysis of the case law of

the Constitutional Court shows: if a decision on initiating a case has been adopted, then this decision predominantly provides the assessment of legal substantiation (in the case of constitutional complaint – the existence of the infringement upon fundamental rights), but less attention is paid to other requirements of Constitutional Court Law. The authors hold that the explanation, why decisions on initiating a case are formal, must be sought in the need to abide by the principle of procedural economy. If it is concluded that a case should be initiated with regard to the submitted application, then all procedural activities for preparing this case for adjudication must be conducted as fast as possible.

If a decision is adopted to initiate a case only with regard to a concrete part of the application, i.e., it is concluded that a case is to be initiated only with regard to a part of the claim included in the application, then the respective decision also provides reasoning why the claim, in a certain part thereof, does not comply with the provisions of Constitutional Court Law. The analysis of the case law of the Constitutional Court allows concluding that usually the refusal to initiate a case with regard to part of the claim is connected with the absence of legal substantiation[73].

The authors in this article have already noted a principle of the judicial proceedings before the Constitutional Court, i.e., that any doubts should be construed in favour of the applicant. Thus, the Constitutional Court adopts the final decision on a procedural issue, which causes doubts, when making the ruling. For example, when dealing with the issue, whether compliance of a State budget sub-programme with the Satversme can be contested at the Constitutional Court, the Constitutional Court recognised that the compliance of the contested budget sub-programme with the *Satversme* can be examined only in interconnection with another legal norm[74]. Moreover, this conclusion was made in a case, initiated on the basis of a constitutional complaint submitted by a private person. Considering the legal status of the State budget, the issue of the right of the subject of abstract control to contest at the Constitutional Court compliance of a particular sub-programme of the State budget with norms of higher legal force was examined in the course of preparing and examining the case[75]. In accordance with the case law of the Constitutional Court, when doubts regarding the existence of a particular infringement exist, in the case of initiating a case these must be construed in favour for initiating a case[76]. As explained in a judgement by the Constitutional Court, *"the issue, whether, indeed, the applicant's, who has submitted a constitutional complaint, fundamental rights have been violated, must be decided by the Constitutional Court by examining the case on its merits."*[77]

Since the Constitutional Court does not hold *ex officio* rights, initiation of a case regarding a matter, which already has been directly or indirectly examined by the Constitutional Court would give it the possibility to specify the insights included in the ruling, as well as to provide repeated assessment of particular issues. Specifying of findings included in court rulings is nothing extraordinary or undesirable.

It has been noted in the legal science that significant changes in circumstances – circumstances of technical, economic or legal nature – lead to decreasing legal binding power of legal norms, as it is not clear, what kind of regulation the legislator would have chosen, had it been informed about the changing circumstances in future. In such cases courts have a legitimate tasks to "assist", very carefully and in accordance with established legal values, the written legal norms with law-making performed by a court.[78] I.e., the new facts of the case require new or clearer legal substantiation in solving the case. In cases like these the court usually does not

amend the insights included in its previous rulings, but differentiates and develops them[79].

Undoubtedly, the Constitutional Court ensures contemporary understanding of the concise text of the *Satversme* or – that even though the "letter" of its norms has not changed, the "spirit" of the *Satversme* and the interpretation of its norms is evolving with time.[80] However, it should be taken into consideration that the Constitutional Court always makes its rulings here and now – assessing the facts of the case existing at a particular moment. A situation can arise, where, when hearing a particular case there was no need to examine extensively a certain issue, however, in the case that has been initiated anew, an issue, which once has been only outlined, must be specified. Former Chairman of the Lithuanian Constitutional Court Egidijus Kūris has provided a very apt explanation of such legal situation, noting that re-interpretation of the constitutional doctrine is not a revolution, but an evolution of the constitutional law, since through this the courts reiterate, refresh, explain and embed the insights defined in previous cases.[81] And a situation may even arise, where the Constitutional Court has to respond concerning the justification of the findings expressed in a previous ruling by the Constitutional Court, which is contested by an application submitted to the Constitutional Court. This reality is reflected in one the most recent applications submitted by the Senate, essentially disagreeing to the findings expressed in a decision by the Constitutional Court to terminate judicial proceedings in Case No. 2012-01-03.[82] In this particular case the Senate considers not only the norm, which defines the general jurisdiction of an administrative court to examine the legality of the decisions adopted by the Central Election Commission (hereinafter – CEC), but also the norm, which defines CEC competence to assess the content of a legislative initiative, being incompatible with the *Satversme*.[83] On the one hand, this application points to a dispute of jurisdictions, whereas, on the other hand, the reasoning included in this application reveals the need to specify or also re-examine the findings expressed in the decision by the Constitutional Court to terminate judicial proceedings in Case No. 2012-01-03. The Constitutional Court itself has noted that it has the obligation to abide by findings included in its rulings due to requirements regarding the stability of legal system, continuity, justice and equality. However, in those cases, where the contested norm does not comply with the actual social reality or collides with the legal relationships, which in the development of society have become dominant, the constitutionality of this norm can be re-examined[84]. The particular application shows that a situation might be possible, where at the stage of initiating the case the possibility that in the examination of the concrete case the Constitutional Court might modify the findings included in previous ruling should be considered.

At the same time such an assessment during the stage of case initiation could be done only *prima facie*, i.e., if the smallest doubt exists regarding the applicability of the findings expressed in the rulings by the Constitutional Court to the particular case, then the case must be examined as to its merits and the assessment of constitutionality performed repeatedly.

Section 20(9) of Constitutional Court Law envisages: if a decision on initiating a case has been adopted than a true copy of the decision is sent to the participants of the case; and the institution or the official, which adopted the contested act, are required within the term set in the decisions, which is at least two months, to provide in writing explanation on the facts of the case and legal substantiation. If a case already has been initiated in the Constitutional Court with an identical claim to

the one included in the application under examination, moreover, if the application does not contain essentially different arguments regarding the incompatibility of the contested norms with the Satvermse, then the Panel decides that it is not necessary to request the institution, which has adopted the contested norm, to provide a written reply, containing explanation of the facts of the case and providing legal substantiation[85]. In fact, the Panel has discretion regarding this issue. However, it must be kept in mind, that this allows exercising the principle of procedural economy. Moreover, the decision on initiating a case is not published in the official journal, but only on the Internet homepage of the Constitutional Court. Information on initiation of a case, indicating the Panel, which initiated the case, the applicant and the title of the case are sent for publication in the official journal.

Since the decision on initiating a case is not subject to appeal, it should be regarded as the final decision[86] with regard to the submitted application. The decision on initiating a case concludes the first state of the judicial proceedings before the Constitutional Court and the next stage – preparing the case for adjudication – begins. I.e., the case is awarded a number and the President of the Constitutional Court charges one of the Judges with preparing the case for hearing.

Summary

The judicial procedure at the Constitutional Court has developed as a kind of judicial proceedings separated from the courts of the judicial system, where specific principles and presumptions, characteristic of only these proceedings, are implemented. The particularities and the unique regulation of the judicial proceedings of the Constitutional Court can be explained by the fact that the jurisdiction of the Constitutional Court follows directly from the *Satversme*. Concise explanation of the Constitutional Court's jurisdiction is set out in the *Satversme:* the constitutional duty of the Constitutional Court is to ensure the supremacy of the *Satversme* and safeguarding of constitutional values. The measures that the Constitutional Court can use for exercising its jurisdiction follow directly from the jurisdiction of constitutional institutions. Thus, the jurisdiction of the Constitutional Court is defined both by the norms and principles of the *Satversme* and Constitutional Court Law. At the same time, regulation of the judicial proceedings before the Constitutional Court, insofar it is not regulated by Constitutional Court Law, is transferred under exclusive jurisdiction of the Constitutional Court itself.

Initiation of a case at the Constitutional Court is a significant procedural stage, as the criteria for admissibility to constitutional judicial proceedings are examined and developed. During this stage of the judicial proceedings before the Constitutional Court the provisions of Constitutional Court Law are applied, excluding deciding on the merits of the case or assessment of the constitutionality of the contested norm (act).

The decision on initiating a case or refusal to initiate a case, which following examination of the application is adopted at a sitting of a Constitutional Court Panel or at the assignments sitting, is a written procedural legal act, which provides legal assessment on the compatibility of the application with the provisions of Constitutional Court Law. The decisions adopted by the Panels of the Constitutional Court are not subject to appeal and apply only to their addressee, and the findings included in them can serve only as means of interpretation and for clarifying the content of the principles of a state ruled by law. Even though the submitted applications are

examined by several (different) Panels, the case law should be uniform. The Panels may not, in examining applications similar as to their content, arrive at different conclusions. In deciding on initiation of a case or refusal to initiate a case, the requirements regarding a fair court must be abided by.

The analysis of the case law of the Constitutional Court shows that during the stage of initiating a case and even prior to initiating a case decisions regarding other issues may be required. For example, the issue on applying temporary measures. However, situations like these should be rather considered as exceptional or extraordinary cases. The absence of other legal remedies, which might ensure effective enforcement of the ruling by the Constitutional Court or prevent significant harm to the applicant's fundamental rights, is of decisive importance in the application of temporary measures before the decision on initiating a case or refusal to initiate it is adopted.

The initiation of a case at the Constitutional Court is a procedure for adopting a ruling, in which the Constitutional Court decides on the way to proceed with the submitted application. Simultaneously this stage in the judicial proceedings before the Constitutional Court is important for the development of constitutionalism, since, essentially, during this stage those issues, which will be dealt with within the framework of constitutional judicial proceedings, are decided.

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[1] Everything expressed in this article is the outcome of the authors' scientific research activities and is not binding upon any institution or organisation, in which they are active. The article is a part of a more extensive study on the issues of judicial proceedings before the Constitutional Court, submitted for publication in European Public Law Organization collection of articles. As the article has been prepared by the end of the October 2013, it contains analyse of legal acts that were in force by the end of October 2013.

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[57] Satversmes tiesas 1. kolēģijas 2008. gada 20. jūnija lēmums par lietas ierosināšanu pēc pieteikuma Nr. 18/2008, 6.2. punkts. [Decision of 20 June 2008 by the 1st Panel of the Constitutional Court on Initiating a Case having Regard to Application No. 18/2008, Para 6.2]. Available: *http://www.satv.tiesa.gov.lv/upload/ierosin_2008_09.htm* (accessed 2013-04-01).

[58] See, for example: Satversmes tiesas 1. kolēģijas 2009. gada 13. oktobra lēmums par lietas ierosināšanu, 7. punkts. Nepublicēts, pieejams Satversmes tiesā [Decision of 13 October 2009 by the 1st Panel of the Constitutional Court on Initiating a Case, Para 9. Unpublished, available at the Constitutional Court]; Satversmes tiesas 2012. gada 20. janvāra rīcības sēdes lēmums lietā Nr. 2012-03-01, 6. punkts. *Latvijas Vēstnesis*, 2012. gada 21. janvāris, Nr. 13 [Decisions of 20 January 2012 by the Assignments Sitting of the Constitutional Court in Case No. 2012-03-01, Para 6].

[59] Satversmes tiesas 1. kolēģijas 2010. gada 18. janvāra lēmums par lietas ierosināšanu, 5. punkts. Nepublicēts, pieejams Satversmes tiesā [Decision of 18 January 2010 by the 1st Panel of the Constitutional Court on Initiating a Case, Para 5. Unpublished, available at the Constitutional Court]; Satversmes tiesas 2010. gada 5. marta rīcības sēdes lēmums lietā Nr. 2010-08-01, 2. punkts [Decision of 5 March 2010 by the Assignments Sitting of the Constitutional Court in Case No. 2010-08-01, Para 2]. Available: *http://www.satv.tiesa.gov.lv/upload/lem_ierosin_2010_08.htm* (accessed 2013-04-01).

[60] Pieteikums par lietas ierosināšanu Nr. 103/2012; Satversmes tiesas 1. kolēģijas 2012. gada 19. jūnija lēmums par atteikšanos ierosināt lietu pēc pieteikuma Nr. 103/2012. Nepublicēts, pieejams Satversmes tiesā [Application regarding Initiation of a Case No.103/2012; Decision by 19 June 2012 by the 1st Panel of the Constitutional Court on Refusal to Initiate a Case having Regard to Application No.103/2012. Unpublished, available at the Constitutional Court].

[61] Pieteikums Nr. 177/2011; Satversmes tiesas 1. kolēģijas 2011. gada 21. decembra lēmums par atteikšanos ierosināt lietu pēc pieteikuma Nr. 177/2011. Nepublicēts, pieejams Satversmes tiesā [Application regarding Initiation of a Case No. 177/2011; Decision by 21 December 2011 by the 1st Panel of the Constitutional Court on Refusal to Initiate a Case having Regard to Application No. 177/2011. Unpublished, available at the Constitutional Court].

[62] Pieteikumi par lietas ierosināšanu Nr. 72/2013, Nr. 73/2013, Nr. 74/2013 Nepublicēts, pieejams Satversmes tiesā [Applications regarding Initiation of a Case No.72/2013, No.73/2013, No.74/2013. Unpublished, available at the Constitutional Court].

[63] Pieteikumi par lietas ierosināšanu Nr. 72/2013 un Nr. 74/2013 Nepublicēts, pieejams Satversmes tiesā [Applications regarding Initiation of a Case No. 72/2013 and No. 74/2013. Unpublished, available at the Constitutional Court].

[64] ASV vēstnieks: Čalovskim izvirzītās apsūdzības ir nopietnas**.** Ziņu aģentūra LETA [Ambassador of the US: the Charges Brought against Čalovskis are Serious]. Available: *http://www.ir.lv/2013/4/11/asv-vestnieks-calovskim-izvirzitas-apsudzibas-ir-nopietnas* (accessed 2013-04-20) .

[65] Tiesībsarga vēstule Ministru prezidentam par Tiesībsarga birojā ierosināto pārbaudes lietu Nr. 2013-62-2A [The Ombudsman's Letter to the Prime Minister regarding the Initiated Verification Case No. 2013-62-2A]. Available: *http://www.tiesibsargs.lv/files/tiesibsarga_vestule_ministru_prezidentam.pdf* (accessed 2013-04-22).

[66] Satversmes tiesas 2013. gada 19. aprīļa rīcības sēdes lēmums, 4. punkts. Nepublicēts, pieejams Satversmes tiesā [Decision of 19 April 2013 by the Assignments Sitting of the Constitutional Court, Para 4. Unpublished, available at the Constitutional Court].

[67] Satversmes tiesas 2013. gada 19. aprīļa rīcības sēdes lēmums. Nepublicēts, pieejams Satversmes tiesā [Decision of 19 April 2013 by the Assignments Sitting of the Constitutional Court. Unpublished, available at the Constitutional Court].

[68] Satversmes tiesas 1. kolēģijas 2012. gada 5. janvāra lēmums par lietas ierosināšanu pēc pieteikuma Nr. 183/2011 [Decision of 5 January 2012 by the 1st Panel of the Constitutional Court on Initiating a Case having Regard to Application no 183/2011]. Available: *http://www.satv.tiesa.gov.lv/upload/2012-01-01%20lemums-ierosinasana.pdf* (accessed 2013-07-10); Satversmes tiesas 1. kolēģijas 2012. gada 18. aprīļa lēmums par lietas ierosināšanu pēc pieteikuma Nr. 48/2012 [Decision of 18 April 2012 by the 1st Panel of Constitutional Court on Initiating a Case having Regard to Application No. 48/2012]. Available: *http://www.satv.tiesa.gov.lv/upload/2012-08-01%20lemums%20par%20ierosin.pdf* (accesed 2013-07-10); Satversmes tiesas 2. kolēģijas 2012. gada 15. novembra lēmums par lietas ierosināšanu pēc pieteikuma Nr. 170/2012 [Decision of 15 November 2012 by the 2nd Panel Constitutional Court on Initiating a Case having Regard to Application No. 170/2012]. Available: *http://www.satv.tiesa.gov.lv/upload/lem_ierosin_2012_22.pdf* (accessed 2013-07-10); Satversmes tiesas 2. kolēģijas 2012. gada 14. decembra lēmums par lietas ierosināšanu pēc pieteikuma Nr. 201/2012 [Decision of 14 December 2012 by the 2nd Panel Constitutional Court on Initiating a Case having Regard to Application No. 201/2012]. Accessible: *http://www.satv.tiesa.gov.lv/upload/lem_ierosin_2012-26.pdf* (accesed 2013-07-10).

[69] *Rodiņa, A., Amoliņa, D.* Lēmums par atteikšanos ierosināt lietu Satversmes tiesā: teorētiskie un praktiskie aspekti. Jurista Vārds, 2013. gada 2. jūlijs, Nr. 26 (777).

[70] A Panel of the Constitutional Court assesses, whether 1) a case falls within the jurisdiction of the Constitutional Court; 2) the applicant is entitles to submit an application; 3) the application complies with the requirements of Section 18 and Section 19^2 of Constitutional Court Law; 4) the application is not submitted with regard to already adjudicated claim; 5) the legal justification or statement of the facts of the case has not changed on its merits in comparison to the previously submitted application, regarding which a decision was taken by the Panel. Satversmes tiesas likums: LR likums. *Latvijas Vēstnesis*, 1996. gada 14. jūnijs, Nr. 103 [Constitutional Court Law].

[71] Section 20(6) of Constitutional Court Law provides that the Constitutional Court, in adjudicating a constitutional complaint, may refuse to initiate a case in those cases when the legal substantiation included in the complaint is evidently insufficient to satisfy the claim. Satversmes tiesas likums: LR likums. *Latvijas Vēstnesis*, 1996. gada 14. jūnijs, Nr. 103 [Constitutional Court Law].

[72] For example, Satversmes tiesas 1. kolēģijas 2013. gada 15.maija lēmums par lietas ierosināšanu pēc pieteikuma Nr. 76/2013 [Decision of 15 May 2013 by the 1st Panel of Constitutional Court Law on

Initiating a Case having Regard to Application No. 76/2013]. Available: *http://www.satv.tiesa.gov.lv/upload/lem_ierosin_2013_09.pdf* (accessed 2013-07-03).

[73] Satversmes tiesas 2. kolēģijas 2012. gada 29. jūnija lēmums par lietas ierosināšanu pēc pieteikuma Nr. 100/2012, 6. punkts [Decision of 29 June 2012 by the 2nd Panel of the Constitutional Court on Initiating a Case having Regard to Application No. 100/2012, Para 6]. Available: *http://www.satv.tiesa.gov.lv/upload/2012_100_ieros_tiesiibsargs_Celu_likums_radari.pdf* (accessed 2013-04-12).

[74] Satversmes tiesas 2010. gada 17. janvāra lēmums par tiesvedības izbeigšanu lietā Nr. 2009-42-0103, *Latvijas Vēstnesis,* 2010. gada 19. janvāris, Nr. 29 [Decision of 17 January 2010 by the Constitutional Court on Terminating Judicial Proceedings in Case No. 2009-42-0103].

[75] Satversmes tiesas 1. kolēģijas 2011. gada 9. maija lēmums par lietas ierosināšanu pēc pieteikuma Nr. 49/2011 [Decision of 9 May 2011 by the 1st Panel of the Constitutional Court on Initiating a Case having Regard to Application No. 49/2011]. Available: *http://www.satv.tiesa.gov.lv/upload/lem_ierosin_2011_11.htm* (accessed 2013-05-07).

[76] See, for example: Satversmes tiesas 2. kolēģijas 2012. gada 19. jūnija lēmums par lietas ierosināšanu pēc pieteikuma Nr. 118/2012 [Decision of 19 June 2012 by the 2nd Panel of the Constitutional Court in Case No. 118/2012]. Available: *http://www.satv.tiesa.gov.lv/upload/2012_118_ieros_J.pdf* (accessed 2013-05-07).

[77] Satversmes tiesas 2013. gada 1. marta spriedums lietā Nr. 2012-07-01, 19. punkts. *Latvijas Vēstnesis*, 2013. gada 4. marts, Nr. 44 [Judgement of 1 March 2013 by the Constitutional Court in Case No. 2012-07-01, Para 19].

[78] *Sniedzīte G.* Tiesnešu tiesības. Latvijas Vēstnesis, 2013, 33. lpp.

[79] *Ibid*, 298. lpp.

[80] *Endziņš, A.* Eiropas Konstitūcijas līgums un Latvijas Republikas Satversme. *Jurista Vārds*, 2004. Gada 12. oktobris, Nr. 39(344).

[81] *Kūris, E.* On perception of Constitutional law: a theoretical approach to Constitutional justice. Book: New Millennium Constitutionalism: Paradigms of reality and challenges. Yerevan: NJHAR, 2013, p. 96.

[82] Latvijas Republikas Augstākās tiesas Senāta Administratīvo lietu departamenta 2013. gada 11. februāra Lēmums, Lieta Nr. A420577912, SA-1/2013 [Decision of 11 February 2013 by the Department of Administrative Cases of the Supreme Court Senate of the Republic of Latvia, Case No. A420577912, SA-1/2013]. Available: *http://www.at.gov.lv/lv/info/archive/department3/hronologiskaseciba/2013/* (accessed 2013-05-07).

[83] *Ibid.*

[84] Satversmes tiesas 2011. gada 25. oktobra spriedums lietā Nr. 2011-01-01, secinājumu daļas 14.3.1. punkts. *Latvijas Vēstnesis*, 2011. gada 28. oktobris, Nr. 171 [Judgement of 25 October 2011 by the Constitutional Court in Case No. 2011-01-01, Para 14.3.1 of the Findings].

[85] Satversmes tiesas 1. kolēģijas 2012. gada 3. oktobra lēmums par lietas ierosināšanu pēc pieteikuma Nr. 149/2012 [Decision of 3 October 2012 by the 1st Panel of the Constitutional Court on Initiation of a Case having Regard to Application No. 149/2012]. Available: *http://www.satv.tiesa.gov.lv/upload/lem_ierosin_2012_19.pdf* (accessed 2013-05-07).

[86] *Spale, A.* Satversmes tiesas kolēģiju lēmumi 2007. gadā: prakses apkopojums. The paper was presented at the conference "Initiating a Case at the Constitutional Court", Riga, 7 December 2007. Available: *http://www.satv.tiesa.gov.lv/upload/Spale_lemumi_07_12_2007.pdf* (accessed2013-05-07).