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PROTECTION OF FUNDAMENTAL HUMAN RIGHTS DURING THE COVID-19 PANDEMIC: THE CASE OF LATVIA

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Abstract: The article offers an analysis of the constitutional regulation of the state of emergency, which was declared twice in Latvia in 2020 to limit the spread of COVID-19. Those decisions have influenced all people. The work of all constitutional institutions has also been affected.

To achieve the goal of limiting the spread of COVID-19, as well as ensuring the continuity of important state functions and services, both during and after the emergency, significant restrictions were imposed. The article describes the system of limitations, which is included in several normative acts, as well as in general administrative acts.

Not the entire society in Latvia treated the imposed restrictions unequivocally. To defend violated fundamental rights, people could use legal remedies and turn to administrative courts and the Constitutional Court. The article provides an analysis of case law based on the actual application of the law. In accordance with the competence of each court, administrative courts reviewed the limitations imposed by general administrative acts, whereas the Constitutional Court reviewed the constitutionality of general legal norms.

Keywords: fundamental rights, limitations, protection, Constitutional Court, parliament, general administrative act.

In 2020, the world encountered an unprecedented crisis in this century. The scope of the impact that COVID-19 left upon states, societies, and people is unparalleled. Although Latvian society had experienced various crises (e.g., the banking crisis and the economic crisis), this challenge, which essentially affected all members of society, occurred for the first time in this century.

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To curb the spread of the COVID-19 virus, in the period from March 2020 until mid-2021, a state of emergency was declared twice in Latvia. During this period, society and individuals encountered various limitations which impacted their lives and were included in various regulatory enactments. Although the limits imposed were not well-received, in a state ruled by the rule of law, everyone is required to obey the law, even if they disagree with it. At the same time, persons did not lose their legitimate right to protect their violated fundamental human rights in court. Persons applied to the courts of the Latvian court system (courts of general jurisdiction and administrative courts) and also to the Constitutional Court by submitting constitutional complaints challenging those limitations. It means that remedies have been applied and continue to be applied. Besides, taking into consideration the competence of the Constitutional Court, it had to rule on and evaluate very important constitutional law issues, like, for example, the remote work of the *Saeima* (the Latvian parliament) during the COVID-19 crisis. It is also important that the Constitutional Court and other constitutional institutions did not stop working during the emergency.

A crisis is a test not only for state institutions but also for each inhabitant of a state. A crisis reveals society's understanding of what the common good is and of each individual's role in society. A crisis is also a good "teacher". Encountering difficulties has allowed testing of the ability of the highest public officials to lead the state in this situation and to adopt well-considered decisions, as well as testing how effectively the constitutional institutions function. Likewise, during the crisis, the understanding of each member of the society of their responsibility for their state and compatriots found the most direct expression.

RESPONSE TO THE COVID-19 PANDEMIC: EMERGENCY AND WORK OF CONSTITUTIONAL INSTITUTIONS IN LATVIA

As noted by sociologist Ulrich Beck, contemporary economic, ecological and other risks create a "global community of threats" (Hanrieder, Kreuder-Sonnen, pp. 335-336). This means that to prevent and limit all those risks, international or even worldwide cooperation is of paramount importance. This COVID-19 crisis also revealed the importance of international cooperation as a dialogue. Nevertheless, the first responsibility rests with the nation-states, which must act to protect the state and society. If necessary, the states can achieve those aims by declaring a state of emergency.

The Constitution of the Republic of Latvia, or the *Satversme* (The Constitution of the Republic of Latvia of 15 February 1922, hereinafter referred to as the *Satversme*), includes special legal regulations on proclaiming the state of exception.

The state of exception is a legal regime (Article 62 of the *Satversme*), which must be proclaimed if the state is threatened by an external enemy, or if an internal insurrection that endangers the existing political system arises or threatens to arise in the state or any part of the state. The *Satversme* does not regulate another untypical or unusual situation that actually occurred in Latvia and other countries of the world at the beginning of 2020 (Balodis, 2021). Another legal regime – an emergency situation – regulated by the law adopted by the *Saeima*, "On Emergency Situation and State of Exception", which (Section 4) explains that an emergency situation (in the entire state, a part of the state or a part of its administrative territory) may be declared in the case of a threat to the state, which is related to a disaster, danger thereof, or threats to the critical infrastructure, if the safety of the state, society, the environment, economic activity, and the health and lives of human beings are significantly endangered. This specific regime must be declared by the Cabinet. It means that in Latvia, the so-called "executive model" of emergency is applied (Dyzenhaus, 2012, p. 442). In accordance with Article 59 of the *Satversme*, in Latvia, as in a parliamentary republic, the government is accountable to the *Saeima* (Judgement of the Constitutional Court in case No. 03-05(99)). Therefore, in accordance with Section 10 of the law "On Emergency Situation and State of Exception", the parliament retains control over the proclamation of an emergency situation. Although the decision on the emergency is adopted by the Cabinet, it must immediately inform the *Saeima* about it. The *Saeima* has been granted the right to verify the validity and legality of the adopted decision.

Responding to the Communication by the World Health Organisation of 11 March 2020 that the number of COVID-19 cases had reached the scope of a pandemic, on 12 March 2020, the Cabinet proclaimed an emergency situation in the entire territory of Latvia to establish epidemiological safety and other measures aimed at curbing the spread of COVID-19 (Cabinet Order of 12 March 2020 No. 103). The emergency situation in Latvia in the first round was in force until 9 June 2020 (Cabinet Order of 7 May 2020 No. 254). The second round of the emergency situation was declared from 9 November 2020 until 6 December 2020 (Cabinet Order of 6 November 2020 No. 655). Later, the state of emergency was prolonged until 6 April 2021.

Following the proclamation of the emergency situation, being aware of the current situation, on 23 March 2020, the first joint meeting in Latvia's history of several constitutional institutions – the President, the Speaker of the *Saeima*, the Prime Minister, the President of the Constitutional Court and the Chief Justice of the Supreme Court – defined the basic principles of work for the constitutional institutions in an emergency situation (President Notification No. 8). It was recognised that all state constitutional bodies, all state authorities, institutions, and public officials had to implement their competences and perform their duties so as to fulfil their functions

and tasks as much as possible within the scope of this common purpose of the state (President Notification No. 8, para. 2). All constitutional institutions agreed that, where required, the form of activity of state constitutional bodies, authorities, institutions, and public officials had to be adapted to the circumstances caused by the emergency situation, if necessary, including a remote working regime. This notification served as a signal to the whole society that the national constitutional bodies, all public institutions, and officials coordinated their activities during the emergency, continuing to fulfil their functions and doing so as effectively as possible.

The parliament also had to find a solution for the continuity of the *Saeima's* work during the pandemic (Rodiņa, Lībiņa-Egnere, 2020, p. 7). At the end of May 2020, the newly created e-*Saeima* platform was launched. The internet platform "e-*Saeima*" is a technological solution appropriate for the *Saeima's* work in the 21st century, providing the possibility to hold totally remote sittings of the *Saeima* while its members are outside the parliament's premises (Lībiņa-Egnere, 2020, pp. 5-6). Taking into account Article 15 of the *Satversme,* which states: "The *Saeima* shall hold its sitting in Rīga, and only in extraordinary circumstances may it convene elsewhere", a debate about the constitutionality of the *Saeima's* remote work evolved. It is important to understand that when the *Satversme* was drafted (1920-1922), the words "convene elsewhere" could be understood only as a physical convening of the deputies in another place. This discussion was actually ended by the judgement of the Constitutional Court, which evaluated the compliance of the e-*Saeima* platform with the Constitution, stating that "[h]olding of a remote *Saeima* sitting is an extraordinary measure enabling the continued work of the parliament also under circumstances where deputies cannot meet in person due to epidemiological safety and restrictions imposed in this regard. It is crucial to create a mechanism in the state to allow the continuation of the parliament's activities and decide on important issues by the legitimate constitutional body." (Judgement of the Constitutional Court in case No. 2020-37-0106, para. 4.2.24).

Thus, notwithstanding the emergency, all constitutional institutions, including the parliament and the courts, continued to work, ensuring the functioning and fulfilment of duties. Clearly, the work of constitutional institutions was impacted. However, the main aim – the functioning of the state – was achieved.

LIMITATION OF FUNDAMENTAL HUMAN RIGHTS DURING THE CRISES: THE NORMATIVE REGULATION

To achieve the aim of curbing the spread of COVID-19 and limiting the repeated spread of the COVID-19 infection, as well as to ensure the continuity of important state functions and services, both during the emergency situation and after it,

significant limitations were introduced, which affected all inhabitants and entrepreneurs of Latvia. One can agree that, during an emergency, the state constitutes an exceptional type of government as it is under the pressure of time and urgency (Hanrieder, Kreuder-Sonnen, 2014, pp. 335-336). To limit the spread of the disease, all decisions had to be made quickly. Clearly, the legislative process differs during a state of emergency. During an emergency, all decisions are made utilizing the urgent legislative procedure. However, at the same time, emergency measures should be proportional, fixed-term, and should not be used for purposes other than those for which they were imposed (Cormacain, 2020, p. 251).

In Latvia, in accordance with Section 8 of the law "On Emergency Situation and State of Exception", during an emergency situation, it is the Cabinet, first and foremost, who has the right to establish various personal limitations. Upon declaring the emergency situation on 12 March 2020 and, later, on 6 November 2020, the orders by which the emergency situation was declared included, for example, restrictions on assembly. Furthermore, freedom of movement and trade were limited for a certain period, studies in schools and higher education institutions were held remotely, and the receiving of services, cultural and sports events were restricted. Thus, similarly to other countries, in Latvia, the executive power had the greatest impact and also the possibility of deciding on measures to contain the pandemic (Griglio, 2020, p. 50). At the same time, the Latvian legislator retained the function of control over the executive power because all orders, including those on extending the emergency situation, were also decided on in the parliament, ensuring that the rule of law and democracy were safeguarded. It is the parliament that is called upon to ensure that the government continues upholding human rights and that emergency measures remain necessary and proportionate to the threat faced (Griglio, 2020, pp. 52-53).

In the spring of 2020 (during the first emergency situation), it was found that the authorisation granted to the Cabinet by the law "On Emergency Situation and State of Exception" and the Epidemiological Safety Law was not sufficient to create normative regulation on the functioning of institutions and persons' obligations and rights relating to curbing the spread of COVID-19. Hence, the issue had to be resolved on how to authorise the Cabinet to establish other limitations beyond the delegation granted before. The *Saeima*, in the urgent procedure, adopted the law "On the Operation of State Authorities During the Emergency Situation Related to the Spread of COVID-19" to resolve various issues relating to the functioning of institutions, the judicial system, penal policy, etc. Alongside it, on 22 March 2020, the law "On Measures for the Prevention and Suppression of Threat to the State and Its Consequences Due to the Spread of COVID-19" entered into force, which established not only restrictions but also special support mechanisms directly related to curbing the spread of COVID-19.

It is important to mention that on 15 March 2020, Latvia submitted to the Secretary-General of the Council of Europe a declaration on derogating from ensuring some aspects of some of the rights and freedoms guaranteed in the European Convention for the Protection of Human Rights and Fundamental Freedoms, for instance, inviolability of private life, freedoms of assembly and movement for the period when the emergency situation was proclaimed in Latvia. On 16 March 2020, Latvia also submitted a similar declaration to the Secretary-General of the UN (Līce, Vītola, 2020). The submission of these declarations was not only a mechanism for fostering transparency with respect to restrictions established to protect public health, but also confirmed the extraordinary nature of that situation and proved that Latvia complied with the principles repeatedly emphasised in the case law of the European Court of Human Rights (Līce, Vītola, 2020).

After the first wave of COVID-19 and when the emergency situation ended (on 9 June 2020), the *Saeima* adopted two special laws: the Law on the Management of the Spread of the COVID-19 Infection and the Law on the Suppression of Consequences of the Spread of the COVID-19 Infection. The Law on the Management of the Spread of the COVID-19 Infection, *inter alia*, defined three substantial principles that had to be complied with in defining and regulating society's life. Firstly, the principle of minimising restrictions on human rights: the rights of persons are restricted only in cases where there are no other alternative measures that protect public health and safety effectively. Secondly, precautionary measures are determined by evaluating the threat of the COVID-19 infection spreading in Latvia and foreign countries, and are implemented by evaluating all existing risks to minimise the threat of the repeated spread of COVID-19. Thirdly, limiting the accessibility of public services relevant to society is only acceptable to the extent necessary to ensure public health and safety, and also the health and safety of the persons involved in the provision and receipt of services.

In accordance with Article 64 of the *Satversme*, in Latvia, the right to legislate is vested in two legislators – the *Saeima* and the people, in the scope defined by the *Satversme*. However, to ensure the effective exercise of state power, a derogation from the requirement that the legislator should entirely resolve all issues itself is admissible. The *Saeima* may authorise the Cabinet or another state institution, properly legitimised, to draft the technical norms needed for the implementation of regulations or laws (Judgement of the Constitutional Court in case No. 2019-10-0103, para 25.3.1.; Judgement of the Constitutional Court in case No. 2020-34-03, para. 11). Pursuant to Para 1 of Section 31 (1) of the Cabinet Structure Law, the Cabinet may issue external legal acts – regulations – only if the law has especially authorised the Cabinet for this purpose (Judgement of the Constitutional Court in case No. 2005-03-0306, para 10). Based on the authorisation from the Saeima, several restrictions were

included in the Cabinet Regulation of 9 June 2020 No. 360 "Epidemiological Safety Measures for the Containment of the Spread of the COVOD-19 Infection", which defined, for example, distancing measures, the obligation to use a face mask, as well as the procedure for receiving services, trade, using public transportation, etc.

Since 6 April 2021, the emergency situation is no longer in force in Latvia. This means that all orders of the Cabinet by which the emergency situation was established and restrictions were introduced are no longer valid. Understanding that the situation relating to curbing the spread of COVID-19 is far from ideal, the *Saeima* has (Law on the Management of the Spread of the COVID-19 Infection) reinforced the delegation to the Cabinet to set special requirements for trade and other services, restrictions or prohibition of sports events, etc. However, such restrictions may be introduced if the threats to public safety related to the spread of the COVID-19 infection cannot be effectively eliminated by applying the legal measures established in the general legal order. The law also defines the obligation to revoke all restrictions if the objective necessity for maintaining the measures restricting persons has ceased.

Clearly, to protect the common public good, i.e., public health, the state has the right to establish restrictions on fundamental human rights to achieve this purpose. However, even in such conditions, the state must comply with the norms of the *Satversme,* respecting the rules for limiting human rights and the basic values of a state governed by the rule of law. Such restrictions cannot be set arbitrarily either. Those who adopt such regulations are primarily responsible for respecting human rights and principles, which are characteristics of a state governed by the rule of law.

THE CONSTITUTIONAL COURT AS A LEGAL REMEDY: LESSONS TO BE LEARNED

It is no secret that the COVID-19 infection cannot be contained by repressive methods alone or by establishing various restrictions. Public health and safety have depended and still depend on the attitude taken by each member of society during this period. It is with good reason that the Preamble to the *Satversme* includes the duty of each individual to take care of "oneself, one's relatives and the common good of society by acting responsibly toward other people, future generations, [..]", the fulfilment of which was tested during this period (The Constitution of the Republic of Latvia of 15 February 1922).

Similarly to the situation in other countries, not all members of Latvian society treated the established restrictions unambiguously. The mass media and social networks also played a certain role, expressing the opinions of some groups and persons that, for example, the use of face masks was not necessary, etc. Likewise, the opinion that the restrictions were incompatible with the *Satversme* was expressed.

The polarization of public opinion put on the agenda the issue of whether an individual was obliged to comply with legal norms, even if he or she personally did not uphold them. In accordance with the principle of the rule of law, all persons have the duty to respect legal norms and the law. A person must comply with valid legal acts even if the person "dislikes" these acts. It has been recognised in the Latvian case law that "[f]or the purpose of legal security, a person must also comply with such laws that he or she considers being unjust. While a legal norm is in force, it must be respected or objected against in the procedure established in law" (Judgement of the Supreme Court case No. SKA-5, para. 15). In other words, a person had to follow the legal norms or use legal remedies by contesting the legal norms that he or she held as being incompatible with the *Satversme* since, in this situation also, all executive action is subject to control (Dyzenhaus, 2011).

Emergency powers always imply limits on individual human rights. An emergency can also cause the risk of undermining the state's constitutional order, as well as the role of the judiciary in such a situation (Khakee, 2009, p. 5). Therefore, in such conditions, the instruments of legal protection and the use thereof are of special significance.

In Latvia, like in several other countries, the exclusive function – to safeguard the constitution (Judgement of the Constitutional Court in case No. 2009-11-01, para. 5) or to ensure the existence of a legal system that complies with the *Satversm*e, as well as to provide its opinion regarding constitutionally important issues (Judgement of the Constitutional Court in case No. 2008-35-01, para. 11.2) – is in the hands of the Constitutional Court of the Republic of Latvia (hereinafter – the Constitutional Court). If fundamental constitutional rights are violated by the state, then the Constitutional Court can also serve as a legal remedy. An individual in Latvia (a natural and also a legal person of private law) can submit to the Constitutional Court a special petition – a constitutional complaint – in accordance with the Constitutional Court Law (Section 19^2). However, by submitting a constitutional complaint, a person can challenge only normative regulation (a norm which is included in a normative act) if the constitutional fundamental rights included in the *Satversme* are infringed upon by this general legal norm.[2] In Latvia,

[2] The Constitutional Court Law (Article 17, para 1) provides that a person can submit a constitutional complaint to challenge the compliance of laws or international agreements signed or entered into by Latvia with the Constitution (also until the confirmation of the relevant agreement in the Saeima), compliance of other laws and regulations or parts thereof with the norms (acts) of a higher legal force, as well as compliance of Latvian national legal norms with those international agreements entered into by Latvia that do not conflict with the Constitution.

a person cannot challenge to the Constitutional Court an individual act – a court judgement or an administrative act. Besides, persons are bound by the special *locus standi* rules. First, there should be an infringement on fundamental rights. Secondly, a person may use the Constitutional Court as the last national legal remedy. Thirdly, a constitutional complaint must be submitted within a set term – within 6 months from the infringement or the moment when the decision of the last legal remedy becomes effective.

Also, in Latvia, the Constitutional Court plays a key role in the protection of fundamental human rights (Comella, 2009, p. 29). From the date when the first emergency situation was declared until 5 May 2021, the Constitutional Court received 30 applications (from natural and legal persons) regarding COVID-19-related restrictions. The Constitutional Court has basically refused to initiate legal proceedings based on these constitutional complaints, mainly for two reasons.

As noted above, on the basis of constitutional complaints submitted by persons, the Constitutional Court reviews only the compliance of the restrictions included in normative acts. As explained above, several restrictions on fundamental human rights were defined exactly in the Cabinet's Orders by which the emergency situation was established in Latvia. Several persons contested the restrictions included in these Orders before the Constitutional Court, advancing a theoretically substantial question, i.e., what kind of legal act an order was – an external regulatory enactment, in the meaning of the Constitutional Court Law or other legal act. The Constitutional Court's assignment sitting, deciding on the Constitutional Court's competence regarding an issue of such importance, provided an answer to this question. The explanation was that the Cabinet's Order was neither an external nor an internal normative act. Considering the content of this Order and its applicability to persons, the Constitutional Court concluded that the Order had to be considered not as an external regulatory enactment but as a general administrative act in the meaning of the second sentence of Section 1 (3) of the Administrative Procedure Law – an act which embodies a normative act or a legal norm in specific circumstances (Judgement of the Constitutional Court in case No. 2018-07-05, para 15.2). A similar conclusion had been made in Latvian legal science previously (Briede, 2021). This finding has also been consolidated in the case law of administrative courts (Decision of the Supreme Court Senate in Case No. SKA-1215/2020). In view of the fact that the legal review of general administrative acts is conducted by administrative courts, it was concluded that these courts, rather than the Constitutional Court, had to conduct the review of the restrictions included in the Cabinet's Order (Decision of the Assignment Meeting on 9 December 2020). Hence, all constitutional complaints that contested restrictions which had been included in the Cabinet's Orders (both the first and the second time) on declaring the state of emergency were recognised

as being outside the Constitutional Court's jurisdiction (Decision of the 1st Panel of the Constitutional Court on 9 December 2020).

In view of this separation between the competence of the Constitutional Court and the courts belonging to the court system, administrative courts have received several applications. However, it should be underscored that a person has the right to contest and appeal against an order at the administrative court only in the part that thereof contains the general administrative act and only if the person belongs to the circle of persons to whom the obligation or the restriction established by the general administrative act applies (Decision of the Supreme Court in case No. SKA-1215/2020). For example, "The Association of Beauticians and Cosmetologists of Latvia" turned to the administrative court with the request to suspend Para 5.2. of the Cabinet's Order of 6 November 2020 No. 655, by which the provision of beauty treatment services by persons registered in the Register of Medical Practitioners was prohibited. The administrative district court, having examined the legality of this restriction, recognised it as being proportional and, thus, dismissed the claim regarding revoking this restriction (Judgement of the District Administrative Court in case No. A42-01409-21/23). Also, one of the major retailers in Latvia, SIA "DEPO DIY", submitted an application to a court (at the moment when this article was written, it has not been reviewed yet) regarding the part of the Cabinet's Order of 6 November 2020 No.655, which prohibited the on-site sale of construction and household goods.

Secondly, as noted above, if a person wants to submit a constitutional complaint to the Constitutional Court, several requirements must be met: the infringement must be proven, subsidiarity and terms must be complied with, and the application must contain legal arguments. In several cases, the persons had not met these requirements in contesting the restrictions established in external regulatory enactments. Therefore, the Constitutional Court's panels decided to refuse initiation of a case, although the submitted applications pertained to important issues, for example, the right to receive the so-called idle time benefit (Decision of the 1st Panel of the Constitutional Court on 11 May 2020; Decision of the 2nd Panel of the Constitutional Court on 11 June 2020), the prohibition of organising a picket (Decision of the 4th Panel of the Constitutional Court on 1 July 2020), the obligation to use a mouth and nose cover (Decision of the 2nd Panel of the Constitutional Court on 17 November 2020).

At the time this article was completed, the Constitutional Court had reviewed only one case in which the COVID-19-related restrictions were examined. The Court has provided its assessment of the restrictions established in Section 8 and 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" to organise gambling

and lotteries both in physical locations where gambling is organised and in the interactive environment. In practice, after these norms entered into force, in view of the authorisation included in Section 9 of the contested law, the Lotteries and Gambling Supervisory Inspection suspended, for the term of validity of the law, all licences to operate gambling both in physical locations and in the interactive environment. Hence, entrepreneurs, several legal persons, submitted an application to the Constitutional Court contesting the prohibition of organising both on-site and interactive gambling. The legal norms were challenged by four legal persons before the Constitutional Court.

The Constitutional Court, examining the compliance of this restriction with the safeguard for the right to property, which was included in the *Satversme* (the first, second and third sentences of Article 105 of the *Satversme*[3]), concluded that the established restriction – the prohibition of organising on-site gambling – had been necessary for society because such action decreased the risk of persons contracting COVID-19 and subjecting others to this risk. With respect to the prohibition of interactive gambling, it was concluded that the legislator had not assessed whether a more lenient measure (set of measures) existed that would restrict a person's fundamental rights, included in the *Satversme*, to a lesser extent, thus achieving the legitimate aims of the same quality. Therefore, the requirement to suspend licences for interactive gambling was recognised as being incompatible with the proportionality principle.

Based on this Constitutional Court's judgement, one provider of such services, a legal person, turned to the administrative district court to request recognition as being unlawful of the decision by the respective Inspection on suspending the licences for organising gambling in the part regarding interactive gambling. By the judgement of 28 March 2021 in case A420180220, the administrative district court satisfied the request of this legal person, also making considerations regarding the possibility of the applicant to claim compensation in the case (Judgement of the District Administrative Court in case No. A42-00372-21/15).

Another case has been initiated before the Constitutional Court regarding the prohibition of a person from entering Latvia from abroad if a COVID-19 test has not been done abroad (Decision of the 1st Panel of the Constitutional Court on 24 March 2021). The Constitutional Court (in the second half of 2021) will have to review the compliance of this restriction with the second sentence of Article 98 of

[3] These norms state: "105. Everyone has the right to own property. Property shall not be used contrary to the interests of the public. Property rights may be restricted only in accordance with the law."

the *Satversme*, which provides that everyone who has a Latvian passport is protected by the state when abroad and has the right to freely return to Latvia.

Thus, taking into consideration the competence of courts, persons can defend their rights that have been infringed upon by turning either to the Constitutional Court or the administrative court. Given the length of proceedings, there is a risk that the legal proceedings will not be terminated yet, but the restrictions will be lifted. However, the fact that a legal norm is not valid *per se* is not grounds for refusing to initiate a case or terminating the legal proceedings that have been initiated before the Constitutional Court. This means that the Constitutional Court may also provide its assessment in cases where the legal norm is non-existent in the legal space. Such an assessment could be important both for resolving the so-called future disputes and for a person defending their fundamental human rights that have been infringed upon.

CONCLUSION

By fulfilling their functions, the constitutional institutions realize public power. The courts of the court system and the Constitutional Court in Latvia are two different constitutional institutions, which realize state power (Judgment of the Constitutional Court in case No. 2006-05-01, para. 10.4). Although each court fulfils its own functions, they all share one aim – to ensure the rule of law. This premise was confirmed by the applications that persons submitted both to the Constitutional Court and to the administrative court to contest, to their mind, disproportionate restrictions established during the period of the so-called COVID crisis.

The courts play an important role during the period of an emergency situation. One can subscribe to the opinion that during an emergency situation, courts fulfil at least three functions: they resolve disputes, control the executive power, and clarify the likely imperfect emergency policies (Petrov, 2020, p. 80). Taking into consideration judgements of the courts in Latvia, emergency normative regulations can be evaluated, and, if necessary, changes should be made.

All restrictions on fundamental human rights established during the COVID crisis have a fixed term and a special purpose – to protect public safety. It is a maxim that public safety is the supreme law itself (Carr, 1940, p. 1309).

Restrictions, which are usually established in haste, cannot be ideal and errorless. The practice shows that errors were made in Latvia as well. Therefore, courts have a significant role in eliminating these deficiencies and, more importantly, in making conclusions regarding the necessary improvements and updates in the regulation of this situation.

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