



THE CONSTITUTIONAL COURT OF THE REPUBLIC OF LATVIA

JUDGMENT

on behalf of the Republic of Latvia

Riga, 11 October 2018

Case No. 2017-30-01

The Constitutional Court in the following composition: Chairperson of the Court Session Ineta Ziemele, Justices Sanita Osipova, Aldis Laviņš, Gunārs Kusiņš, Daiga Rezevska, Jānis Neimanis and Artūrs Kučs,

on the basis of the application of the Supreme Court,

based on Article 85 of the Constitution of the Republic of Latvia and Section 16, Clause 1, Section 17, Paragraph one, Clause 9, Sections 19.¹ and 28.¹ of the Constitutional Court Law,

on 11 September 2018, in the written procedure, reviewed the case

“On Compliance of Section 26, Paragraph one, Section 128 Paragraph two, Clause 1.² (first sentence) and Section 132, Paragraph one, Clause 6 of the Civil Procedure Law, insofar as they establish the obligation to indicate the declared place of residence of the defendant in the statement of claim, with Article 96 of the Constitution of the Republic of Latvia”

The Establishing Part

1. On 14 October 1998, the Parliament of the Republic of Latvia (hereinafter – the *Saeima*) adopted the Civil Procedure Law, which entered into force on 1 May 1999.

Section 26, Paragraph one of the Civil Procedure Law provides that actions against natural persons shall be brought before a court based on their declared place of residence. According to the first sentence of Section 128, Paragraph two, Clause 1.² of the Civil Procedure Law, the statement of claim shall indicate the given name, surname, personal identity number, declared place of residence and the additional address indicated in the declaration of the defendant, third party, but, if none, the place of residence. However, Section 132, Paragraph one, Clause 6 of the Civil Procedure Law provides that a judge shall refuse to accept a statement of claim if the case is not within the jurisdiction of this court.

2. The Applicant – the Supreme Court (hereinafter – the Applicant) holds that Section 26, Paragraph one, Section 128, Paragraph two, Clause 1.² (first sentence) and Section 132, Paragraph one, Clause 6 of the Civil Procedure Law, in so far as they provide for the obligation to indicate the address of the declared place of residence of the alleged defendant in the statement of claim (hereinafter – the contested provisions) are incompatible with Article 96 of the Constitution of the Republic of Latvia (hereinafter – the Constitution).

The Supreme Court decided to apply to the Constitutional Court when examining an administrative case initiated on the basis of an application of a legal person governed by private law regarding the imposition of the obligation on the Office of Citizenship and Migration Affairs (hereinafter – the Office) to provide it with information on the declared place of residence of several public persons. The Applicant in the administrative case needs this information in order to bring civil proceedings against the persons concerned before a court of general jurisdiction.

The Applicant indicates that according to the contested provisions, in order to be able to apply to the court in the civil procedure, the Applicant must process the data of the alleged defendant – a natural person, i.e. information on his/her declared place of residence. There is no provision in the Civil Procedure Law that allows a plaintiff to apply to the court if it has not established the place of residence of the alleged defendant. Thus, the contested provisions infringe the fundamental rights of the alleged defendant in a civil case, established in Article 96 of the Constitution.

Information on a person's declared place of residence is kept in the Population Register. According to the provisions of the Population Register Law and the Personal Data Protection Law (end of validity on 5 July 2018), such information may be disclosed to a third party, inter alia, if that party must exercise its lawful interests. In the present case, the applicant in the administrative case has a lawful interest to bring a civil action before a court arising from the first sentence of Article 92 of the Constitution. When deciding on the issuing of personal data, it is necessary to balance the lawful interest of the requesting party with the fundamental right established for the data subject in Article 96 of the Constitution, but this is not possible in the present case.

In the framework of the administrative procedure, there are limited possibilities to ascertain whether the interest of the requesting party to apply to the court is genuine and whether the reference to the desire to apply to the court is not used in bad faith – to find out the residential address of a particular person. Moreover, neither the responsible authority nor the administrative court is entitled to assess the merits of the civil action envisaged by the person requesting the information. Therefore, there is a risk that issuing information on the alleged defendant's declared place of residence may infringe his or her right to privacy. The Applicant, referring to the case law of the European Court of Human Rights, points out that such a risk particularly affects public persons. However, if the information on the declared place of residence of the alleged defendant is not provided, the requesting party is denied the possibility to exercise the right to a fair trial.

The contested provisions were adopted and proclaimed in accordance with the procedure laid down in the Constitution and the Rules of Procedure of the *Saeima* and were worded sufficiently clearly to allow a person to understand the content of the rights and obligations arising therefrom and to foresee the consequences of their application. Thus, the restriction of fundamental rights contained in those provisions is established by law. The address of the defendant's declared place of residence has two functions in civil proceedings: it is necessary to send the court documents to the alleged defendant, and it is used to determine the court having jurisdiction. This ensures that the potential defendant in a civil case is

informed of the proceedings and is able to participate properly and exercise his or her procedural rights, as the court having jurisdiction is closer to the defendant's place of residence and is more accessible to him or her. Thus, the restriction of fundamental rights established in the contested provisions has a legitimate aim – protection of the right to a fair trial of the alleged defendant in a civil case.

Although the contested provisions are appropriate to achieve that legitimate aim, there are more lenient means by which that aim could be achieved. The address of a publicly accessible place where there is a high probability of meeting the alleged defendant in a civil case, e.g. the address of his or her workplace, may be used to communicate with the alleged defendant, as provided for in Section 56, Paragraph five of the Civil Procedure Law. Notification to such an address would be no less effective than notification to the address of the declared place of residence, especially in the case of a public person. Moreover, such a notification procedure is particularly reasonable where the claim in question relates to the professional activities of the alleged defendant in the civil case. Similar procedures are also laid down in the laws and regulations of other countries. The question of jurisdiction, on the other hand, can be resolved in such a way that the court to which the application is submitted determines the court having jurisdiction and forwards the application to that court. Such determination of jurisdiction would not impose an excessive burden on the courts, as the Civil Procedure Law already provides for the court to transfer a case to another court in certain cases. Moreover, jurisdiction under the rules of the Civil Procedure Law may be determined on the basis of other criteria than the defendant's place of residence.

3. The institution which issued the contested act, the Saeima, holds that the contested provision complies with Article 96 of the Constitution.

The bringing of a case in the court of the defendant's declared place of residence is a general principle of determining jurisdiction in civil proceedings and is applicable throughout the European Union. Moreover, the obligation to indicate the initial contact details of the defendant for the purpose of sending court

correspondence exists even where the plaintiff is not obliged to initiate proceedings at the court based on the defendant's declared place of residence.

The contested provisions restrict the right to privacy of the alleged defendant in a civil case by imposing an obligation to indicate the address of his or her declared place of residence in the statement of claim. However, the fundamental right established in Article 96 of the Constitution has been restricted by a law adopted in due order, the restriction of the fundamental right has a legitimate aim (protection of the rights of others) and it is proportionate.

According to the Applicant, the contested provisions disproportionately restrict the right to private life only to public persons. However, it should be noted that the case law of the European Court of Human Rights recognises as public persons not only those who hold public office, but also other persons. Therefore, whether a particular person is to be regarded as a public figure must be assessed on a case-by-case basis. It is therefore impossible to determine to which persons the exception to the general principle that a case must be brought in the court based on the defendant's place of residence would apply.

The *Saeima* does not agree that bringing a case in the court on the basis of a publicly known address where a person resides or imposing an obligation on the court to find out for itself the court having jurisdiction should be regarded as less restrictive means of fundamental rights. Persons who could be considered public do not necessarily have one fixed workplace, and such publicly accessible addresses might not exist. The employer's official address is not always the place where the employee resides and carries out his/her duties. If the employee is employed by an individual, the employer's address could also be considered as the address of the other person's declared place of residence. Moreover, the consignment in question could be opened by employees of the administrative or another department of the person's place of work, which means that the contents of the consignment could become known to third parties and thus infringe the right to the inviolability of correspondence and privacy of the alleged defendant in the civil case.

The obligation of the plaintiff to identify the defendant, provide the defendant's contact details and bring the action before the court which has

jurisdiction to hear the dispute arises from the adversarial principle. Moreover, this obligation is also consistent with the dispositive principle, according to which the taking or not taking of procedural steps depends on the subjective discretion of the party. Therefore, the initiation of civil proceedings requires a legal basis – a statement of claim in a certain form and content. Therefore, there are no equally effective means of achieving the legitimate aim which are compatible with the principles of civil procedure and which are less restrictive of the rights of the individual.

The Applicant has not indicated such specific risks or dangers which could not be eliminated by other mechanisms provided for by law and which would justify a difference in treatment of public persons as compared to other potential defendants in civil proceedings in comparable circumstances. There is no justification for the assumption that public persons are more exposed than others to the risk of danger or unwarranted public scrutiny in their homes. Moreover, when assessing the proportionality of the restriction of fundamental rights laid down in the contested provisions, it is also necessary to take into account the public importance of the civil liability of civil servants and officials. It is an essential tool not only to ensure the protection of the rights of individuals, but also to promote public confidence in public administration.

In the present case, the processing of personal data is lawful because it satisfies all three of the cumulative criteria laid down by the Court of Justice of the European Union, namely: (1) the need to initiate proceedings at a court to seek compensation for damages constitutes a lawful interest; (2) the information is necessary to initiate legal proceedings under civil law; (3) the right to bring a civil action overrides the rights of the data subject.

The legislator has provided for sufficient protection against unjustified disclosure of personal data. A request for information from the Population Register must be precise and properly reasoned. However, the obligation of a person to give reasons for such a request does not imply that the Office could assess the prima facie admissibility of the civil claim or require it to be produced in all cases. The assessment of the admissibility of a statement of claim is part of a fair trial and falls

within the competence of the court. Thus, the benefit to society of protecting the rights of others outweighs the restriction of an individual's right to privacy.

4. Other party to the proceedings – the Ombudsman – considers that the contested provisions are incompatible with Article 96 of the Constitution in the case when the plaintiff has the name, surname and personal identity number of the defendant.

Although the assumption of the possibility of danger is theoretical, any natural person could be exposed to danger if his or her home address were disclosed. In balancing freedom of expression and the right to privacy of recognisable persons, the European Court of Human Rights has not held that the private life of such persons should be protected more than that of an ordinary individual. The State has both a positive and a negative obligation to protect the privacy of every person, including information about their place of residence.

It is not permissible for a public authority to examine a statement of claim in order to reach a conclusion as to whether there are grounds for providing information on the declared place of residence of the alleged defendant. A less restrictive but sufficiently effective means of achieving the legitimate aim could be an obligation on the court to ascertain the declared place of residence of the alleged defendant and to contact him or her if the fully prepared statement of claim contains the name and personal identity number of the alleged defendant. The court has access to the data of the Population Register, so imposing the obligation to search for the defendant would not create any particular difficulties for the court. The *Saeima's* observation that searching for the defendant falls within the scope of the adversarial principle cannot be accepted.

If only the name of the alleged defendant in a civil case is known, the public authority must be involved in identifying that person, since in a democratic state governed by the rule of law, even in such a case, it is also not permissible to prohibit a person from applying to a court of general jurisdiction. The person must apply to the Office with a reasoned request for the address of the alleged defendant's declared place of residence. In such cases, personal data will be processed, but this

restriction is necessary because its legitimate aim cannot be achieved in any other way. The Office will have to assess the merits of the reasoning for the application, but will have to refrain from assessing the statement of claim in that civil action. In cases of disclosure of personal data, the competent authorities must exercise a certain degree of caution in order to strike a fair balance between the public and private interests, and that balance must be legally verifiable, taking into account factors such as the importance of the interests at stake and the severity of the interference.

5. Other party to the proceedings – the Ministry of Justice – holds that the contested provision complies with Section 96 of the Constitution.

In the event that the defendant's declared place of residence is indicated incorrectly or inadequately, the court, when refusing to initiate civil proceedings, indicates the address of the alleged defendant's declared place of residence and the court before which the action is to be brought. The same applies to a decision to leave a statement of claim not proceeded with. In practice, it is possible to apply to the Office with a decision to leave a claim not proceeded with, requesting to issue the information on the address of the defendant's declared place of residence. The decision confirms that the person has applied to the court and that the address of the alleged defendant is necessary for legal proceedings to be initiated. Moreover, the refusal of the Office to provide information submitted to the court should be recognised as a sufficient basis for the deficiencies to be considered eliminated and the judge to initiate the case. In addition, there are other mechanisms that can be used when applying to the court, such as submitting an application for the production of evidence, asking the court to request personal identification information.

Bringing an action in court on the basis of the defendant's place of work or study and sending court documents to that address would not achieve the legitimate aim to the same degree. A distinction must be made between the grounds for jurisdiction and the court's communication with the party to the case. There may also be difficulties in ascertaining the natural person's place of work for the purpose

of bringing an action. In addition, it is already possible for court documents to be delivered to a person at his or her place of work. The court may therefore cumulatively or alternatively use several methods of service of documents in cases where the person cannot be reached at his or her declared place of residence. However, serving documents to a person at his or her place of work would further infringe that person's right to privacy, therefore the obligation to receive consignments would be limited to the person's declared place of residence, unless the person has indicated that he or she wishes to receive the documents at his or her place of work.

The Ministry of Justice does not agree with the Applicant's suggestion to provide that the court itself should determine the court having jurisdiction. The Civil Procedure Law provides for the transfer of a case that has already been initiated, not of a pending application, as it is for the judge to decide on the application and initiation of the case as a whole.

As regards the protection of personal data, an appropriate regulation is already in force, since according to the Population Register Law, natural and legal persons may obtain information about another person from the register on the basis of a reasoned submission.

6. Other party to the proceedings – the Data State Inspectorate, holds that the contested provisions allow the possibility to process personal data also in a way which is not related to the right of other persons to apply to the court.

The declared place of residence constitutes personal data, which is part of the right to inviolability of private life. The provision of such information, in turn, constitutes processing of personal data.

The obligation to indicate the declared place of residence of the alleged defendant was introduced in the Civil Procedure Law not only for the purpose of exercising the adversarial principle, but also for practical reasons. The courts initially may not have had access to the relevant databases, which would have been necessary for them to ensure the effective progress of the case on their own initiative. However, there are currently alternative ways of obtaining the relevant

data. The Data State Inspectorate assumes that the indication of the address of residence previously served as a means of personal identification. However, the procedure for choosing a place of residence has now changed, as has the way in which the address is communicated to the State, and a more precise identifier – the personal identity number – has been created.

The legislation does not oblige parties to private transactions to indicate their declared place of residence, or even their place of residence at all. According to Section 1 of the Declaration of Place of Residence Law, the purpose of this Law is to ensure that every person is reachable in terms of legal relations with the State or local government. Thus, the requirement imposed on a private individual to process another natural person's data not only restricts the defendant's fundamental rights under Article 96 of the Constitution, but also to a certain extent infringes the plaintiff's right to access to court.

The personal data protection requirements set out the principles of lawfulness, fairness, minimality and anonymity for the processing of personal data. The processing of data must be carried out only for the purpose for which it is intended and to the extent necessary for that purpose. The information obtained is to be used only for purposes related to the specific field. The purpose of disclosing a person's place of residence in the present case relates to the lawful interest of other persons in having recourse to legal proceedings. However, personal data may also be processed in a manner not related to the purpose in question. Moreover, the only mechanism providing protection against unjustified processing of personal data is the criminalisation of that action under the Law Code and the Latvian Administrative Violations Code. Therefore, more lenient means should be chosen in order to achieve the legitimate aim of the restriction of fundamental rights contained in the contested provisions. A proportionate means of balancing the legal interests of both parties would be to give an active role to the court.

7. Other party to the proceedings – Martins Osis, lecturer at the Faculty of Law of the University of Latvia – holds that the contested provisions comply with Article 96 of the Constitution.

A certain set of information on the defendant is necessary to ensure the right to a fair trial, irrespective of the civil procedural framework. The actual place of residence of a natural person may not coincide with his or her declared place of residence. The legislator distinguishes between declared and actual residence in terms of purpose and content. The declared place of residence is used for official communication, but not necessarily as a real and actual place of residence. The defendant's right to privacy can therefore be affected only by information about his actual place of residence in cases where it coincides with his or her declared place of residence.

The contested provisions are aimed at ensuring that the defendant has the opportunity to express his or her views on the action brought and to exercise his or her procedural rights. Violations related to the failure to inform the parties properly of the hearing are violations which may lead to a wrong decision in the case. Therefore, proper information of the parties not only directly affects these subjects but also affects the effective functioning of the judicial system. The principle of the declared place of residence covers the entire system of civil procedure, but in the present case only part of the regulation in question is challenged, the quality, effectiveness and adequacy of which should be considered in broader terms than the obligation to include information on the defendant's declared place of residence in the statement of claim.

The alternatives proposed by the Applicant should be assessed with caution. The fact that the court itself would have to determine the court having jurisdiction in order to transfer the application to it could create an adverse administrative burden. The possibility of bringing an action before the court on the basis of the place of work or study is open to criticism, as there are risks related to the practical application of such a regulation, the impact on procedural economy, as well as the additional burden on the plaintiff, who is already initially burdened with a large number of obligations in civil proceedings.

The declaration of residence may impinge on the subject's private life, as it to some extent links the individual to a specific geographical point, but the individual may reduce this impact by indicating a place where he does not carry out private

activities. Therefore, the system of the declared place of residence is a sufficiently effective and appropriate means of official communication, which could be improved, but is not considered to have such a negative impact on the private life of an individual that its compatibility with the Constitution should be questioned.

8. Other party to the proceedings – attorney-at-law Agris Bitāns – holds that the Contested provisions comply with Article 96 of the Constitution.

The law provides for a procedure ensuring that the disclosure of personal data is fully transparent, as a request of a certain form and content specifies both to whom the information is to be disclosed and the purposes for which it is needed. Moreover, the disclosure of personal data is minimal – only to the extent required by the Civil Procedure Law.

The obligation to pay a state fee may be considered as a means of protecting data subjects, since a financial contribution, if necessary to obtain the information, may deter a person from requesting the information. If such a procedure for requesting personal data existed, it would be unlikely that individuals would frequently request information on the declared residence of others under the pretext of an interest in bringing legal action.

However, a person's interest in bringing an action against another natural person prevail over the natural person's right not to disclose the address of his or her declared place of residence. The statement of the Applicant that unwanted attention or danger to a public or to any other person is automatically caused by the fact that some other persons have knowledge of his or her declared place of residence, cannot be agreed with. This cannot be the basis for a claim that disproportionate risks are created for a person, nor can a different approach to the disclosure of the address of a public person's declared place of residence be justified. While non-disclosure is one aspect of privacy, the more common definition of privacy relates to control over to whom, when and what information about a particular person is issued.

The Applicant's suggestion that court documents be sent to the place of work or study is disproportionate, since the content of the relevant mail could fall into the

hands of third parties and could result in disclosure of information about the defendant's private life. Moreover, the Civil Procedure Law provides for the possibility of closed hearings in cases of sensitive categories, but it is doubtful that the sensitivity of these cases could be adequately preserved if court consignments were addressed to the defendant at his or her place of work or study.

As regards the possibility for the court itself to ascertain the court having jurisdiction, it should be borne in mind that a person's interest in ascertaining the court having jurisdiction may exist even before the action is brought. If the alleged defendant in a civil case does not have a declared place of residence in Latvia, it may turn out that the work invested by the plaintiff in preparing the statement of claim is meaningless. Moreover, it is not excluded that the location of the court is one of the criteria which the plaintiff considers when deciding whether to bring an action.

The Concluding Part

9. The Applicant came to the decision to submit an application to the Constitutional Court when examining an administrative case initiated on the basis of an application of a legal person governed by private law regarding the imposition of the obligation on the Office to provide it with information on the declared place of residence of several natural persons. In the present case, the applicant in the administrative case needs the data of natural persons in order to bring a civil action for compensation of damages before a court of general jurisdiction. In order for the applicant in the administrative case to be able to exercise the right to bring an action before a court in accordance with the procedure laid down in the Civil Procedure Law, it is necessary under the contested provisions to ascertain the addresses of the declared places of residence of the alleged defendants, all of whom are public persons. The Applicant considers that such procedure infringes the right to inviolability of private life established in Article 96 of the Constitution for the alleged defendant in a civil case (*see p. 5 of the application case-file*).

The Applicant contests the constitutionality of three provisions of the Civil Procedure Law. The Constitutional Court has established that the contested

provisions provide for: 1) the general principle of civil procedure that the jurisdiction of the court in a particular dispute is to be determined based on the place of residence of the defendant (Section 26, Paragraph one of the Civil Procedure Law); 2) the obligation to indicate the address of the defendant's declared place of residence in the statement of claim (Section 128, Paragraph two, Clause 1.² (first sentence) of the Civil Procedure Law); 3) the legal consequences of failure to comply with this obligation, namely that the judge refuses to accept the statement of claim if the case is not within the jurisdiction of this court (Section 132, Paragraph one, Clause 6 of the Civil Procedure Law). The contested provisions are interrelated as part of the legal framework under which the defendant is identified and the jurisdiction of the court in civil proceedings is determined. Thus, the contested provisions should be assessed as a single legal framework.

Section 19.¹ of the Constitutional Court Law regulates proceedings before the Constitutional Court, inter alia, in the case when an application has been received from a court. Courts, including administrative courts, are the subject of specific constitutional review, therefore they cannot submit an application for abstract constitutional review to the Constitutional Court (*see Judgment of the Constitutional Court of 26 April 2018 in Case No 2017-18-01, paragraph 22*). Pursuant to Section 19.¹, Paragraph one, Clause 2 of the Constitutional Court Law and Section 104, Paragraph two of the Administrative Procedure Law, an administrative court may challenge before the Constitutional Court only such provisions that have been applied or are applicable in the respective administrative case, i.e., such norms on which the solution of the legal dispute in the administrative case depends (*see Judgment of the Constitutional Court of 20 June 2018 on termination of proceedings in Case No 2017-19-01, paragraph 7*).

The issuance of the information requested in the administrative case under review by the Applicant is regulated by the provisions of the Population Register Law and Cabinet Regulation No 130 of 15 February 2011 “Procedures for Issuing the Information Included in the Population Register” (hereinafter – Regulation No 130). Pursuant to Section 10, Paragraph one, Clauses 1 – 3 and Clause 10 of the Population Register Law, information on a person's given name (names), personal

identity number and declared or indicated place of residence is stored in the Population Register. Section 19 of this Law allows natural or legal persons to receive the information regarding another person from the Register based on a reasoned submission. Paragraph 8 of Regulation No 130 lays down the requirements for the request for the provision of information, including the obligation to indicate the amount of necessary information, justification for the necessity to receive information and the document (copy) certifying it, the purpose of using the information and the data by which the person to whom the requested information relates can be identified.

In the present case, the contested Section 26, Paragraph one of the Civil Procedure Law reflects a general principle of civil procedure, according to which the jurisdiction of the court in a particular case is determined, namely: actions against natural persons shall be brought before a court based on their declared place of residence. The first sentence of Section 128, Paragraph two, Clause 1.² of the Civil Procedure Law provides that the statement of claim shall indicate the declared place of residence of the person. Meanwhile, Section 132, Paragraph one, Clause 6 of the Civil Procedure Law provides that a judge shall refuse to accept a statement of claim if the case is not within the jurisdiction of this court. In the present case, this is relevant if the statement of claim is not submitted to the court of the defendant's declared place of residence.

The Applicant holds that there is no regulation in the Civil Procedure Law which would enable the plaintiff to apply to the court without ascertaining the place of residence of the alleged defendant, which is to be indicated in the statement of claim in accordance with the contested provisions. In order to be able to exercise his or her right to bring a civil action before a court, a person needs to know the address of the alleged defendant's declared place of residence, in accordance with the provisions of the Civil Procedure Law on the information to be provided in the statement of claim. The Constitutional Court concludes that the contested provisions are thus related to the obligation to indicate the address of the alleged defendant's declared place of residence in the statement of claim, and it follows

from them that information on this address must be issued in accordance with the provisions of the Population Register Law and Regulation No 130.

Therefore, in the case under review the provisions of a single legal regulation have been contested, on which the outcome of the legal dispute in the administrative case being examined by the Applicant depends, and it is for the Constitutional Court to assess their compliance with Article 96 of the Constitution.

10. When examining the case, the Constitutional Court must examine whether the contested provision complies with provisions of higher legal force, *inter alia*, taking into account the Applicant's reasoning and the grounds and considerations reflected in the application (*cf. Judgment of the Constitutional Court of 11 December 2006 in Case No 2006-10-03, paragraph 16.2, and Judgment of 15 June 2017 in Case No 2016-11-01, paragraph 12.1*). In the case of an application by a court, or within the scope of the so-called specific control, the circumstances of the particular case are relevant to arrive to a decision in the case (*cf. Judgment of the Constitutional Court of 19 November 2013 in Case No 2013-09-01, paragraph 13.2, and Judgment of 15 June 2017 in Case No 2016-11-01, paragraph 12.1*).

It follows from the application that the Applicant's observations on the incompatibility of the contested provisions with the Constitution and the notion of a public person have been applied not to all persons who play a certain role in public life (for example, in art, sport, music and other fields), but only to certain public persons, namely, former and current members of the Cabinet of Ministers. The above persons are subject to a relatively greater intrusion into their private life, however, effective data protection is particularly important for them in the context of information on their place of residence, since they are at greater risk than others of unwanted and unjustified public scrutiny or even danger at their place of residence.

10.1. In the case law of the European Court of Human Rights, not only persons holding public office have been recognised as public persons (*cf. the*

judgment of the European Court of Human Rights of 24 June 2004 in Von Hannover v. Germany, Application No 59320/00, and the judgment of 7 February 2012 in Von Hannover v. Germany, Applications No 40660/08 and No 60641/08), but also other persons (cf., for example, Judgment of 7 February 2012 of the European Court of Human Rights in Axel Springer AG v. Germany, paragraph 99, and Judgment of 16 January 2014 in Lillo-Stenberg and Saether v. Norway, paragraph 37). A natural person who is not recognised in society can claim special protection for his or her private life, but the same is not true for public persons. In certain cases, the right of the public to receive information interferes with the private life of public persons, and this is particularly true for politicians (cf., for example, Judgment of the European Court of Human Rights of 7 February 2012 in Von Hannover v. Germany, Applications No 40660/08 and No 60641/08, paragraph 97). In balancing freedom of expression and the right to privacy of public persons, the European Court of Human Rights has not held that the private life of such persons should be protected more than that of an ordinary individual. Whether a particular person is to be regarded as a public figure must be assessed on a case-by-case basis.

The Constitutional Court notes that the risk of potential threat to public persons or the risk that they may be subjected to unjustified public attention, mentioned by the Applicant, may be eliminated by other legal means provided for in laws and regulations, which are not related to the determination of the jurisdiction of the court in civil proceedings. These remedies are contained, inter alia, in Section 250.⁵⁸ of the Civil Procedure Law, the Criminal Procedure Law, the Civil Law, the Criminal Law and the Law On Police. The Security Police provides security for certain senior state officials in accordance with the Law On State Security Institutions and Cabinet Regulation No 591 of 6 September 2016 “Procedures by which the Security Police Provides Protection (Safeguarding) for Officials to Be Protected”.

10.2. Civil procedure is intended for resolving private legal disputes. A person has the right to bring a civil action against any other natural person, irrespective of whether the alleged defendant in the civil action is considered a

public person or not. In accordance with the principle of procedural equality inherent in the concept of a fair trial (the rights of the parties to the proceedings must be fairly balanced in the course of examination of a case), there is no reason to treat public persons differently from other potential defendants in comparable circumstances in civil proceedings. Thus, in the present case, it is not necessary to distinguish between the different possible defendants in a civil case, i.e. to distinguish between public persons and other persons.

Therefore, the Constitutional Court will assess the effect of the contested provisions on every person, and not only on some public persons.

11. The Applicant holds that the contested provisions disproportionately restrict the fundamental rights guaranteed to the alleged defendant in a civil case under Article 96 of the Constitution, since they require processing of his personal data, i.e. to ascertain and indicate the address of his declared place of residence. Within the framework of the institutions of court application and constitutional complaint as included in the Constitutional Court Law, it is important to ascertain whether the fundamental rights established in the Constitution have actually been infringed (*cf. Judgment of the Constitutional Court of 19 October 2011 in Case No 2010-71-01, paragraph 14, and Judgment of 15 June 2017 in Case No 2016-11-01, paragraph 12.1*). Thus, the Constitutional Court must first establish whether the contested provisions relate to the fundamental right established in Article 96 of the Constitution and restrict the right to inviolability of private life of the person indicated by the Applicant, namely, the alleged defendant in the civil case.

11.1. The application emphasises that the contested provisions establish the obligation to indicate the defendant's declared place of residence in the statement of claim, and in case the plaintiff has indicated an incorrect address and the statement of claim has been submitted to a court which does not have jurisdiction over the case, the judge shall, pursuant to Section 132, Paragraph one, Clause 6 of the Civil Procedure Law, refuse to accept the statement of claim. In the light of the above, it is clear that the present case concerns not only the alleged defendant in the civil

proceedings whose declared place of residence is to be indicated in the statement of claim, but also the right of access to a court of persons who have brought or intend to bring an action before a court of general jurisdiction.

The Constitutional Court has recognised that, in order to clarify the content of certain provisions of the Constitution more fully and objectively, they must, *inter alia*, be specified in conjunction with other provisions of the Constitution. The application of the principle of unity of the Constitution is based on the assumption that the Constitution is a coherent whole and the provisions contained therein are to be interpreted systemically (*see Judgment of the Constitutional Court of 7 October 2010 in Case No 2010-01-01, paragraph 12 and Judgment of 29 June 2018 in Case No 2017-25-01, paragraph 17*). The contested provisions lay down the obligation to indicate in the statement of claim the address of the alleged defendant's declared place of residence in order to enable the plaintiff to exercise his or her right of access to a court. Therefore, although the case under examination has been initiated with regard to the incompatibility of the contested provisions with Article 96 of the Constitution, the Constitutional Court must also take into account the rights guaranteed in other provisions of the Constitution, including the right of a person to a fair trial enshrined in Article 92, which *inter alia* covers the right to access to a court.

11.2. When specifying the right to inviolability of private life enshrined in Article 96 of the Constitution, the Constitutional Court has indicated that this right includes various aspects. The right to privacy means that an individual has the right to his or her private space, suffering minimum interference by the State or others. It protects the physical and mental integrity, honour and dignity, identity and personal data of individuals. Information on a person is included in the content of the above concept (*see Judgment of the Constitutional Court of 14 March 2011 in Case No 2010-51-01, paragraph 13, and Judgment of 16 June 2016 in Case No 2015-18-01, paragraph 10*).

The Republic of Latvia has undertaken international commitments that also aim to protect the privacy of individuals, including their personal data. Article 8(1) of the European Convention for the Protection of Human Rights and Fundamental

Freedoms (hereinafter – the Convention) provides, inter alia, that everyone has the right to respect for his private and family life. The European Court of Human Rights, has recognised when interpreting Article 8 of the Convention that the concept of ‘private life’ is broad, encompassing various aspects of a person's physical and social identity, and cannot be exhaustively defined. Information about a person and the protection of his or her data fall within the scope of the right to privacy. The protection of personal data is of decisive importance for a person to exercise the rights set out in Article 8 of the Convention (*see Judgment of the Grand Chamber of the European Court of Human Rights of 16 February 2000 in Amann v. Switzerland, Application No 27798/95, paragraph 65, and Judgment of 4 December 2008 in S. and Marper v. the United Kingdom, Applications No 30562/04 and 30566/04, paragraphs 66 and 103*). The respect for private life and the protection of personal data are also enshrined in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.

The Constitutional Court has previously noted, when specifying the fundamental rights enshrined in Article 96 of the Constitution in conjunction with Article 8 of the Convention, that State institutions are not only obliged to refrain from any unjustified interference with the right to inviolability of private life, but also to take the necessary measures to protect this right. The legislator must establish a mechanism for the protection of personal data that ensures that the rules on processing are fit for the intended purpose. The processing (collection, storage, disclosure) of data related to a person's private life falls within the scope of the right to inviolability of private life (*see Judgment of the Constitutional Court of 12 May 2016 in Case No 2015-14-0103, paragraphs 15.1 and 23.3.2*).

According to the first paragraph of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter referred to as the “GDPR”), personal data means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by

reference to an identifier such as that person's name, identification number, location data, an online identifier or to one or more factors specific to that natural person's physical, physiological, genetic, mental, economic, cultural or social identity.

In view of the above, the declared place of residence of a natural person shall be considered as personal data. Disclosure and collection of personal data are processing activities within the meaning of the GDPR (Article 4(2)). According to Section 19 of the Population Register Law, persons may obtain information about another person on the basis of a reasoned application. The requirements for a request for information are set out in Paragraph 8 of Regulation 130. Thus, the provision of information on the declared place of residence of a natural person in connection with a statement of claim based on the need to bring a civil action before a court, as well as the receipt and indication of such data in the statement of claim (in accordance with the contested provisions) is considered to be processing of personal data. Information on the declared place of residence of a natural person constitutes data relating to the private life of the person and the processing of such personal data constitutes an interference with the private life of the person.

Consequently, the contested provisions restrict the right to inviolability of private life of the alleged defendant in a civil case enshrined in Article 96 of the Constitution.

12. The right to inviolability of private life can be restricted, but an examination must be made of whether the restriction is justified, i.e. whether: 1) it is established by law; 2) it has a legitimate aim; 3) it is proportionate (*see Judgment of the Constitutional Court of 16 June 2016 in Case No 2015-18-01, paragraph 12*).

13. To evaluate whether a restriction of a fundamental right is established by law, it is necessary to examine the following:

1) whether the law is adopted in compliance with the procedures provided for in laws and regulations;

2) whether the law has been proclaimed and is publicly available in accordance with the requirements of laws and regulations;

3) whether the wording of the law is sufficiently clear to allow a person to understand the content of the rights and obligations arising therefrom and to foresee the consequences of the application thereof (*see, for example, Judgment of the Constitutional Court of 2 July 2015 in Case No 2015-01-01, paragraph 14, and Judgment of 16 June 2016 in Case No 2015-18-01, paragraph 13*).

The contested provisions are included in the Civil Procedure Law and are publicly available in accordance with the requirements of laws and regulations. The parties to the case and other parties to the proceedings are unanimous and the Constitutional Court also has no doubts that the contested provisions have been adopted and proclaimed in accordance with the procedure established by the Constitution and the Rules of Procedure of the *Saeima* and that they are worded sufficiently clearly to allow a person to understand the content of rights and obligations arising therefrom and to foresee the consequences of their application. However, whether the obligation to indicate the declared place of residence of the defendant in the statement of claim established by the contested provisions is permissible in substance must be assessed by ascertaining whether the restriction of fundamental rights established by the contested provisions has a legitimate aim and whether the principle of proportionality has been complied with.

Consequently, the restriction of fundamental rights resulting from the contested provisions is established by law.

14. Any restriction of fundamental rights must be based on circumstances and arguments on why it is necessary, namely, the restriction is imposed for the sake of important interests – a legitimate aim (*see, for example, Judgment of the Constitutional Court of 22 December 2005 in Case No 2005-19-01, paragraph 9*). When establishing a restriction on fundamental rights, the obligation to present and substantiate the legitimate aim of the established restrictions in the Constitutional Court proceedings is first of all for the institution that issued the contested provision (*see, for example, Judgment of the Constitutional Court of 13 June 2014 in Case no 2014-02-01, paragraph 13*).

In the case under review, the *Saeima* points out that the legitimate aim of the restriction of fundamental rights included in the contested provisions is the protection of the rights of others enshrined in Article 116 of the Constitution. The Applicant and the persons invited to the proceedings also agree on the existence of such a legitimate aim of the restriction of fundamental rights established by the contested provisions.

The Constitutional Court concludes that, at the current stage of development of the legal system, the restriction of fundamental rights established in the contested provisions ensures the right of a person to apply, in the procedure established by the Civil Procedure Law, to the court having jurisdiction over a particular person, who is identifiable, inter alia, by the address of his or her declared place of residence. The restriction of fundamental rights provided for in the contested provisions protects the rights of the defendant by ensuring his communication with the court (the person receives court correspondence addressed to him or her at his or her declared place of residence) and that the court proceedings take place closer to his or her place of residence.

Thus, the restriction of fundamental rights included in the contested provisions has a legitimate aim – the protection of the rights of others enshrined in Article 116 of the Constitution.

15. The Constitutional Court has concluded that, when establishing the legitimate aim of a restriction of a fundamental right, it is necessary to assess the compatibility of that restriction with the principle of proportionality and thus to ascertain:

first, whether the means used by the legislator are appropriate for achieving the legitimate aim, namely, whether the contested provision can achieve the legitimate aim;

second, whether such action is necessary, namely, whether the legitimate aim cannot be achieved by means which are less restrictive of the rights of the person;

Third, whether the action of the legislator is appropriate. i.e. whether the benefit to society outweighs the damage caused to the rights of the person.

If it is recognised that the restriction contained in a legal provision does not comply with at least one of these criteria, then the restriction also does not comply with the principle of proportionality and is unlawful (*see, for example, Judgment of the Constitutional Court of 16 June 2021 in Case No 2015-18-01, paragraph 15*).

16. When assessing whether a restriction of a fundamental right is proportionate, the Court must first ascertain whether the contested provisions are appropriate for achieving the legitimate aim.

The parties to the case and other persons to the proceedings invited by the Court do not dispute that the restriction on fundamental rights laid down in the contested provisions is an appropriate means of achieving the legitimate aim. The Constitutional Court points out that the above restriction, at the current stage of the development of the legal system, not only facilitates the division of civil cases according to territorial jurisdiction, but also allows to identify the potential defendant in a civil case, at the same time ensuring both the right of a person to bring a civil action before the court having jurisdiction and the fact that it is more convenient for the defendant to exercise his or her procedural rights, as the court having jurisdiction is closer to his or her place of residence. The indication of the defendant's address ensures that correspondence addressed to him or her can be received easily and privately at his or her place of residence.

Therefore, the measure selected by the legislator is suitable for achieving legitimate aim.

17. The restriction of rights established in the contested provisions is necessary if there are no other means which would be equally effective and the choice of which would result in less restriction of the fundamental rights of persons (*see Judgment of the Constitutional Court of 13 May 2005 in Case No 2004-18-0106, Concluding Part, paragraph 19, and Judgment of 28 November 2014 in Case No 2014-09-01, paragraph 20.2*).

The Applicant holds that the legitimate aim of the restriction of fundamental rights contained in the contested provisions may be achieved by means less

restrictive of the rights of a person, for example, by allowing that the action is brought based on the person's place of work or another public place where the person is known to reside, as well as by providing that the court itself determines the court having jurisdiction and forwards the statement of claim to it (*see pages 5 and 6 of the application case-file*).

17.1. According to Section 6 of the Declaration of Place of Residence Law, every person who is a Latvian national has the obligation to declare his or her place of residence. From Section 3, Paragraph one of this Law follows a presumption that a person also lives at the declared place of residence. The purpose of declaring a place of residence under this legal provision is to ensure that the State is informed of the address at which a person can be contacted in legal relations with the State and local authorities.

According to Section 4, Paragraph one of the Law on Notification, a document shall be notified to a natural person to the address of the declared place of residence or the additional address indicated in the declaration. The country has established a system whereby the addressee is obliged to be reachable at the address given. The Law on Notification establishes a presumption of receipt of a document depending on the manner of its notification. According to Section 3, Paragraph five of this Law, the addressee may avoid the actual receipt of documents, but cannot avoid the receipt of documents in the legal sense. The requirements of the Civil Procedure Law regarding the address of the alleged defendant and jurisdiction are based on this national system.

It follows from the above that a person is not obliged to be reachable at his or her place of work or study. Moreover, there is no reason to believe that, in the present case, bringing the action at the address of the person's place of work or place of study would be any more lenient than bringing it at the address of the person's declared place of residence. If the address of the person's place of work or study were known, indicating it in the statement of claim would mean that the court's correspondence would also be sent to that address. In this case, there would be a risk that the item could be opened by the administrative staff of the person's workplace or place of study and that the contents of the item could become known

to third parties. The alleged defendant in the civil proceedings would thus have his or her right to the inviolability of correspondence infringed and his or her right to privacy and that of the other persons involved in the case violated.

It should be noted that a public figure may also be subject to claims that are not related to his or her professional activities. Civil liability is a personal liability, and if the action is brought against a specific person, the procedural rights and obligations of the defendant lie with that person and not with his or her place of work. In addition, people do not always have one fixed workplace address and the employer's official address is not always the place where the employee is located and carries out his or her professional duties.

17.2. Nor can a regulation under which the court would, on its own initiative, ascertain the court having jurisdiction and transfer the statement of claim to it before deciding whether to accept it and initiate civil proceedings be regarded as an alternative means of achieving the legitimate aim by means less restrictive of the rights of the person.

Civil proceedings require a legal basis – a statement of claim in a certain form and content, which the plaintiff is responsible for drafting. Therefore, civil proceedings cannot be brought on the court's initiative, but it is the plaintiff's duty to obtain factual material, including information about the parties, and to bring the action before the court having jurisdiction. In this respect, it should also be taken into account that the plaintiff may have an interest in ascertaining the court having jurisdiction even before the action is brought (*see the opinion of Agris Bitāns, other party, on page 86 of the case-file*). For example, an application for securing a claim must be filed with the court where the claim is to be secured.

Moreover, even if the court itself ascertained the alleged defendant's declared place of residence and the court having jurisdiction and forwarded the statement of claim to that court, the plaintiff would still be aware of the defendant's address after consulting the case file. So, in the civil case, the data of the potential defendant would not be processed to any lesser extent. Thus, this measure indicated by the Applicant cannot be regarded as a measure which would be capable of achieving the

legitimate aim by restricting the rights provided for in Article 96 of the Constitution to the alleged defendant in a civil case to a lesser extent.

There are therefore no more lenient means of achieving the legitimate aim to the same quality.

18. When assessing whether the restriction of fundamental rights included in the contested provisions complies with the legitimate aim, it must be ascertained whether the adverse consequences that the person incurs as a result of the restriction of his/her fundamental rights are outweighed by the benefit that society as a whole derives from this restriction (*see Judgment of the Constitutional Court of 7 October 2010 in Case No 2010-01-01, paragraph 15 and Judgment of 16 June 2016 in Case No 2015-18-01, paragraph 18*).

The Constitutional Court has indicated that the principles of protection of personal data are: respect for the rule of law, fairness, minimality and anonymity. These principles oblige the legislator to adopt such legal acts that would guarantee the security of data, as well as establish reasonable restrictions on their use (*see Judgment of the Constitutional Court of 14 March 2011 in Case No 2010-51-01, paragraph 14, and Judgment of 16 June 2016 in Case No 2015-18-01, paragraph 18*). The Constitutional Court, taking into account the above-mentioned principles of data protection, will assess whether the benefit obtained by the society outweighs the harm caused to the fundamental rights of the alleged defendant in the civil case.

18.1. The principle of the rule of law includes the condition that the use and transfer of personal data for purposes other than those for which the data were originally obtained may take place only in accordance with the consent of the person or on the basis of the law (*see Judgment of the Constitutional Court of 14 March 2011 in Case No 2010-51-01, paragraph 14*).

In the present case, there is no dispute that the data of the alleged defendant in the civil case may be used on the basis of the law, i.e. the contested provisions, and they are related to the need to provide the data of the alleged defendant in

accordance with the provisions of the Population Register Law and Regulation No 130. Such processing is therefore in line with the principle of the rule of law.

18.2. The principle of minimality provides that the processing of personal data is prohibited unless it is necessary to achieve significant and previously clearly defined purposes for the processing of data. Namely, taking into account the importance of proper storage of data, the use of data is permissible only for the performance of particularly significant tasks in order to protect legally relevant interests (*see Judgment of the Constitutional Court of 14 March 2011 in Case No 2010-51-01, paragraph 14*).

18.2.1. In the present case, the use of data could be necessary to protect the right to a fair trial enshrined in Article 92 of the Constitution. In the context of the principle of minimality, it is also necessary to determine whether the amount of data to be disclosed is proportionate to the purpose of the processing. When issuing the data in question, the State must take the necessary measures to ensure that personal data are issued only to the extent that they are actually needed.

A party's initial decision to bring an action before a court of general jurisdiction is based on the dispositive principle, according to which the taking or not taking of procedural steps, including the exercise or not of a right of action, depends solely on the subjective discretion of the party. The contested provisions, in turn, provide that the right to apply to court in civil proceedings may be exercised only if the person has ascertained and indicated in the statement of claim the address of the alleged defendant's declared place of residence. Only if the alleged defendant in a civil action has no declared place of residence is the plaintiff obliged to provide the court with the address of the alleged defendant's actual place of residence, if known to him or her.

The obligation under the contested provisions to indicate the place of residence of the alleged defendant in a civil case reflects a general principle of civil procedure which determines the jurisdiction of the court in a particular dispute. The bringing of a civil action historically has always involved the need to use a certain amount of information about the defendant, as neither the action nor the proceedings are conceivable without the involvement of the defendant. A certain

amount of data on the defendant is necessary in any civil proceedings (*see also the opinion of other party to the proceedings Martins Osis, p. 70 and 71 of the case-file*). The European Court of Human Rights has found that the obligation for the plaintiff to state the defendant's address in the statement of claim in a civil case is established in more than 30 countries, including countries belonging to the Western legal circle. In at least 18 of the countries surveyed, the plaintiff must try to ascertain the defendant's address (*see Judgment of the European Court of Human Rights of 27 April 2017 in Schmidt v. Latvia, application No 22493/05, paragraphs 39-41*). The State can require the parties to contribute to making a particular civil procedure possible in the first place. The plaintiff is obliged to name the parties so that the court knows who is involved in litigation against whom. First, the defendant and his or her address must be sufficiently specific to enable the statement of claim to be served on him or her.

In the light of the above, the obligation of the plaintiff to identify the defendant, including the address of the alleged defendant, and to bring the action before the court having jurisdiction over the dispute is inextricably linked to the nature of the civil proceedings.

18.2.2. A legal provision cannot be interpreted outside the practice of its application and the legal system in which it functions (*see, for example, Judgment of the Constitutional Court of 28 November 2014 in Case No 2014-09-01, paragraph 20.2.2*). The Constitutional Court will assess the obligation to indicate the address of the alleged defendant's declared place of residence in the statement of claim in the context of a person's right to access to court also in conjunction with case law.

Section 133, Paragraph one, Clause 1 of the Civil Procedure Law provides that the judge shall leave a statement of claim not proceeded with if the statement of claim does not include all the details specified in Section 128, Paragraph two or four of this Law, including the defendant's declared place of residence. In practice, court decisions on leaving a statement of claim not proceeded with indicate where a person should turn to obtain information on the address of the alleged defendant's declared place of residence (*see Decision of the Judge of the City of Riga Vidzeme*

District Court of 12 February 2018 in case with archive No 3-11/0156/26 and Decision of the Judge of the City of Riga Vidzeme District Court of 20 February 2018 in case with archive No 3-11/0184/20). In response to such a court decision, i.e. a decision to leave a statement of claim not proceeded, it is possible to apply to the Office for information on the address of the alleged defendant's declared place of residence. Submission of such a decision confirms that the person has applied to the court and that the defendant's address is necessary for the action to be brought.

By contrast, where a judge refuses to accept a statement of claim, he or she must give a reasoned decision in a separate procedural document, stating the grounds for refusal. For example, if the case is not in the jurisdiction of a court (Section 132, Paragraph one, Clause 1 of the Civil Procedure Law), the decision should indicate to which authority the plaintiff should apply to protect his or her rights. The decision must also indicate how to remedy the circumstances preventing the case from being initiated [*see: Civilprocesa likuma komentāri. I daļa. (1.–28. nodaļa). Otrais papildinātais izdevums. Sagatavojis autoru kolektīvs prof. K. Torgāna zinātniskajā redakcijā. Rīga: Tiesu namu aģentūra, 2016, p. 414*]. Thus, the court should indicate in its decision refusing the statement of claim how to remedy the defects in that statement of claim so that it is accepted and the case is initiated.

The Constitutional Court also draws attention to the recognition in the legal doctrine that an incorrect or inappropriate indication of the defendant's declared place of residence, which is different from the address included in the Population Register, is a ground for the court to refuse to accept the statement of claim pursuant to Section 132, Paragraph one, Clause 6 of the Civil Procedure Law if the court has no jurisdiction over the case. However, the decision must specify the court with jurisdiction to which the statement of claim should be submitted [*see: Civilprocesa likuma komentāri. I daļa. (1.–28. nodaļa). Otrais papildinātais izdevums. Sagatavojis autoru kolektīvs prof. K. Torgāna zinātniskajā redakcijā. Rīga: Tiesu namu aģentūra, 2016, p. 104*]. Also, according to some examples of case law, the decision on refusal to accept the statement of claim may indicate the

address of the alleged defendant's declared place of residence and the court where the claim should be brought according to the rules of jurisdiction (*see Decision of the Judge of the City of Riga Latgale District Court of 21 February 2018 in case with archive No 3-10/0061/29 and the decision of the Ogre District Court of 21 February 2018 in case with archive No 3-10/0010/1*).

In addition, the Ministry of Justice, other party in the present proceedings, has pointed out the possibility for the plaintiff, in case he or she has failed to ascertain the address of the alleged defendant, to apply to the court using the provision on securing evidence before bringing a lawsuit provided in Chapter 16 of the Civil Procedure Law (*see, for example, Decision of the Judge of the City of Riga Vidzeme District Court of 27 December 2017 in the case with archive No 3-12/0255/11 and Decision of the Judge of the City of Riga Zemgale District Court of 25 May 2015 in the case with archive No 3-12/0059/9*).

According to the case law analysed above and in accordance with the contested provisions, when applying to the court, a person must either provide information on the declared place of residence of the alleged defendant known to him or her (in case of an incorrect indication, the court may indicate the correct address of the defendant's declared place of residence and the court where the action is to be brought), or apply to the Office with a duly reasoned application (in certain cases accompanied by a court decision confirming that the person has applied to the court and the defendant's address is required to initiate legal proceedings). The practice of application of the contested provisions described in this paragraph of the Judgment, both with regard to the plaintiff's obligation to indicate the address of the alleged defendant's declared place of residence in the statement of claim, and with regard to the role of the court in intervening in civil proceedings and indicating the said address, is consistent with the principles underlying civil procedure and, consequently, with the right to access to court in civil proceedings enshrined in Article 92 of the Constitution, as it offers mechanisms by means of which a person may ascertain the address of the alleged defendant's declared place of residence or provide evidence before bringing an action before a court.

18.2.3. The Constitutional Court considers that such amount of data to be provided, i.e. information on the declared place of residence of the alleged defendant, by its content is the minimum that ensures the possibility to bring a civil action before the court having jurisdiction. The legitimate aim of the restriction of the fundamental right laid down in the contested provisions cannot be achieved if the data are not provided at least to the extent laid down in the contested provisions. Consequently, the restriction of the fundamental right enshrined in Article 96 of the Constitution contained in the contested provisions complies with the principle of minimality.

It should be noted that the principle of anonymity cannot be applied to the present situation for objective reasons, since the bringing of an action at the place of residence of the defendant is a general principle of jurisdiction in civil proceedings.

18.3. The principle of fairness in the area of data protection requires that the acquisition and processing of information be carried out in such a way as to exclude disproportionate interference with the privacy, autonomy and integrity of data subjects (*see Judgment of the Constitutional Court of 14 March 2011 in Case No 2010-51-01, paragraph 14*). The principle of proportionality states that when public authorities restrict the rights and lawful interests of a person, a reasonable balance must be struck between the interests of the person and those of the State or society. The legislator must reasonably weigh the interests of all the parties involved and adopt a decision consistent with the will of the majority, in which the interests of the persons concerned would be proportionately respected (*see Judgment of the Constitutional Court of 19 March 2002 in Case No 2001-12-01, Conclusive Part, paragraph 3.1, and Judgment of 30 October 2009 in Case No 2009-04-06, paragraph 13.4*).

The right of access to court is a fundamental right, and the protection of other fundamental rights depend on the proper protection of that right. By applying to the courts for compensation of damages, a person exercises his or her rights, while the legislator has provided sufficient protection against the unjustified issuing of personal data from the Population Register. According to Section 19 of the Population Register Law, natural and legal persons may obtain information about

another person from the register on the basis of a reasoned application. Paragraph 8 of Regulation No 130, on the other hand, lays down specific requirements for the request to issue information, including the obligation to specify the amount of information required, justification for the necessity to receive the information and the documents certifying it, the purpose of using the information and the data by which the person to whom the requested information relates can be identified. Thus, there is a legal framework in place to ensure transparency of disclosure of personal data, i.e. it is clear both to whom the information has been disclosed and for what purpose it has been disclosed.

In case of unlawful processing of personal data, the legislator has provided for a penalty under Section 204.⁷ of the Latvian Administrative Violations Code (Illegal Operations with a Natural Person's Data). Moreover, a person who carries out unwanted, unjustified tracking of another person or surveillance of another person's residence is liable under this provision as well as Section 132.¹ (Persecution) or other sections of the Criminal Law.

The Constitutional Court concludes that the fundamental right of the alleged defendant in a civil case to the protection of his or her data, enshrined in Article 96 of the Constitution, clashes with the fundamental right of another person to the protection of his or her rights to a fair court in civil proceedings, while these rights, in turn, are protected by Article 92 of the Constitution. The consequences of the restriction of the fundamental right guaranteed by Article 96 of the Constitution for the alleged defendant in a civil case as a data subject are the disclosure of his/her data within a limited scope and only to a specific person who has duly justified the request for such data and who is liable in case he or she processes the personal data in question unlawfully. Conversely, from the point of view of the consequences which the plaintiff might suffer if the data relating to the alleged defendant's declared place of residence were not processed, it must be held that, in the present case, the applicant would be substantially deprived of access to a court for the protection of his or her rights in civil proceedings. It is in the public interest to ensure that the right to a fair trial is exercised at least to the extent provided for in Article 92 of the Constitution. In the present case, having weighed the

aforementioned consequences and having assessed the indicated clash of fundamental rights, the Constitutional Court concludes that the benefit which society derives from the alleged restriction of the fundamental rights of the defendant outweighs the harm caused to his or her fundamental rights.

Consequently, the restriction on the fundamental rights of a person established in the contested provisions is proportionate and complies with Article 96 of the Constitution.

19. However, the Constitutional Court draws attention to the fact that as a result of the rapid development of information technologies, the possibilities of courts to access various databases have also significantly expanded, while the regulation included in the contested provisions regarding the role of the court in civil proceedings has not changed in its essence for a certain period of time. The Constitutional Court has already noted many times that the legislator is obliged to periodically consider whether a given legal regulation is still effective, appropriate and necessary and whether it should be improved in any way (*see, for example, Judgment of the Constitutional Court of 11 November 2005 in Case No 2005-08-01, paragraph 9.5, and Judgment of 2 June 2008 in Case No 2007-22-01, paragraph 18.3*). The evolution of technology, the judicial system and legal relations between members of society can make legal frameworks that were once in conformity with higher-ranking legal rules obsolete and ultimately even violate fundamental personal rights.

Part of rulings

On the basis of Sections 30–32 of the Constitutional Court Law, the Constitutional Court

decided:

to declare Section 26, Paragraph one, Section 128 Paragraph two, Clause 1.² (first sentence) and Section 132, Paragraph one, Clause 6 of the Civil

Procedure Law, insofar as they establish the obligation to indicate the declared place of residence of the defendant in the statement of claim, compliant with Article 96 of the Constitution of the Republic of Latvia

The Judgement is final and not subject to appeal.

The Judgement shall enter into force as of the date of its publication.

Chairperson of the Court session

I. Ziemele