



THE CONSTITUTIONAL COURT OF THE REPUBLIC OF LATVIA

JUDGMENT ON BEHALF OF THE REPUBLIC OF LATVIA Riga, 16 December 2008 in Case No. 2008-09-0106

The Constitutional Court of the Republic of Latvia, composed of the Chairman of the Court session Gunārs Kūtris, Justices Kaspars Balodis, Aija Branta, Juris Jelāgins, Kristīne Krūma and Viktors Skudra,

based on Article 85 of the Satversme (Constitution) of the Republic of Latvia and Article 16 (1) and (6), the first part of Article 17 (11) and Article 28.¹ of the Constitutional Court Law,

having regard to the constitutional claim of Boleslavs Murans,
on 21 November 2008 in the Court session examined the case in written proceedings:

“On Compliance of the First Part of Section 230.1 of the Criminal Law with the First Sentence of the First Part of Article 7 of the European Convention on Human Rights and Fundamental Freedoms and Article 64 and 65 and the Second Sentence of Article 92 of the Satversme (Constitution) of the Republic of Latvia”.

The Constitutional Court has established:

1. The Criminal Law came into force on 1 April 1999. On 25 April 2002, the Saeima (Parliament) of the Republic of Latvia (hereinafter - the Saeima) adopted the

Law “Amendments to the Criminal Law”, which supplemented Section 230.1 of the Criminal Law by providing for criminal liability for violation of keeping animals regulations. This Section provides:

“(1) For a person who commits violations of the keeping of animals regulations as results in the committing of light bodily injury or moderate bodily injury to the victim,

the applicable sentence is deprivation of liberty for a term not exceeding one year, or custodial arrest, or community service, or a fine not exceeding twenty times the minimum monthly wage.

(2) For a person who commits violations of the keeping of animals regulations as results in the committing of serious bodily injury to the victim, or such has caused the death of a person,

the applicable sentence is deprivation of liberty for a term not exceeding four years, or forced labour, or a fine not exceeding sixty times the minimum monthly wage.

2. The Applicant Boleslavs Murans (hereinafter – the Applicant) was recognized guilty according to the judgment of 14 November 2006 by the Riga City North District Court (Rīgas pilsētas Ziemeļu rajona tiesa) and sentence was applied according to the first part of Section 230.1 of the Criminal Law (hereinafter – the Contested Norm). The criminal offence took place on 30 April 2005. The Riga Regional Court (Rīgas apgabaltiesa), after having examined the appeal of the Applicant on 13 June 2007, retained the above mentioned judgment unchanged. On 26 October 2007, the Department of Criminal Cases of the Supreme Court Senate also rejected the cassation complaint of the Applicant.

The Applicant holds that the Contested Norm violates his rights to be recognized guilty according to the law. The Applicant indicates that observance of the procedure of a legal norm adoption serves as a pre-requisite for recognition of validity of a legal norm. However, the Contested Norm has been adopted by violating several norms of the Saeima Rules of Procedure. The Contested Norm has been adopted on 25 April 2002 based on the Law “On Amendments to the Criminal Law”. This draft law has been listed into the Draft Law Register as draft law No. 677.

The Applicant emphasizes that the Contested Norm was included into the draft law only at the third reading, therefore its necessity has not been discussed neither observing an appropriate order, nor by the responsible commission, or at any meeting of the Saeima. Moreover, there are no materials regarding legal justification and necessity of the adoption of the Contested Norm (annotation of the draft law, an opinion of the responsible commission, an opinion of the Saeima Legal Service) publicly available. Such justification can neither be found in the records of the Saeima meetings. A suggestion to include the Contested Norm into the Criminal Law was filed by two members of the Saeima; however, according to Article 65 of the Satversme of the Republic of Latvia (hereinafter - the Satversme), a draft law may be submitted by not less than five members of the Saeima. Since the Contested Norm has been adopted violating the procedures of legal norm adoption, it is unlawful and does not comply with Article 64 and 65 of the Satversme.

The Applicant indicates that Article 92 of the Satversme guarantees the rights to defend his or her rights and lawful interests in a fair court and to be presumed innocent until his or her guilt has been established in accordance with the law. The first sentence of the first part of Article 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the Convention) also provides that a judgment in a criminal case shall only be based on a legal norm that is valid at the time when a criminal offence has been committed. It follows from the aforementioned that the legislator is obligated to provide a clear and unambiguous wording of any legal norm of the criminal law, whilst the applicants of the norm are obligated to provide a non-extended interpretation of these norms. According to the case-law of the European Court of Human Rights (hereinafter - the ECHR), there have been three requirements set forth for such legal norm, namely, it must be legitimate, publicly available and clear enough.

The Applicant admits that the Contested Norm provides for a certain liability for violations of the keeping of animals regulations. At the time of committing a criminal offence (on 30 April 2005), however, no regulations of the Cabinet of Ministers regulating the order of keeping of animals or rights and duties of owners of animals have been in force. Only the Animal Protection Law was valid. In this law, the rights and duties of owners of animals are established only generally. Moreover, this

law also contains an authorization to the Cabinet of Ministers to elaborate several regulations in the field of keeping of animals. Since no such regulations of the Cabinet of Ministers have been in force, the Applicant holds that he has been convicted based on an unlawful legal norm of the Criminal Law because this norm does not clearly state what actions a person should refrain from in order not to violate the rights and interests of other persons. Consequently, the Contested norm complies neither with the second sentence of Article 92 of the Satversme, nor with the first sentence of the first part of Article 7 of the Convention.

3. The institution that adopted the contested act, the Saeima, does not agree with the opinion of the Applicant and holds that the Contested Norm complies with legal norms of a higher legal force due to several reasons.

The Contested Norm has been adopted observing Article 64 and Article 65 of the Satversme because it has been adopted by the Saeima, whereas the draft law wherein the Contested Norm has been included was submitted by the Cabinet of Ministers.

The Saeima indicates that the issue regarding concretization of the norms of the Criminal Law regarding compliance with violations of keeping of animals regulations was put forth by the President of the Sate on 23 October 2001 by submitting a proposal to the Saeima according to the procedures established by law. Then it has been submitted to the Defence and Internal Affairs committee (hereinafter – the Responsible Committee). After this, there was a work group organized, which prepared a proposal by providing criminal liability even if in the result of violation of keeping of animals regulations a person gets light bodily injury. According to Section 94 of the Saeima Rules of Procedure, the Responsible Committee shall prepare a draft law for the second reading by providing opinions on the proposals filed and, in the case of necessity, putting forth its own proposals. At the meeting of 12 December 2001, the Responsible Committee has decided to approve the proposal of the work group and include it into the draft law No 992 as its own proposal. The Saeima approved this draft law (and thus the Contested Norm) at the second reading at the meeting of 20 December 2001. Consequently, the statement of the Applicant that the

Contested Norm cannot be found in any draft law discussed at the second reading is ungrounded.

At the meeting of 10 April 2002, the Responsible Committee merged several draft laws regarding amendments to the Criminal Law into one draft law No 677 according to Item 2 of the second part of Section 85 of the Saeima Rules of Procedure. Proposals of the Saeima Legal Bureau have also been filed for the third reading of the draft law No. 922. These proposals, together with the draft law No. 922 have been annexed to the draft law No. 677 and included into the agenda of the Saeima as proposal No 29 and proposal No. 52. These proposals envisaged changing the place of the Contested Norm in the draft law unlike it has been decided in the second reading by including it into Section 230.1 instead of Section 131.1. The Saeima has approved the draft law No 677 in the third reading. It has been adopted at the meeting of the Saeima of 25 April 2002. The State President proclaimed the law on 9 May 2002.

The Saeima emphasizes that the Contested Norm has been adopted in accordance with the Saeima Rules of Procedure. Consequently, the restriction has been established by law that has been adopted according to the procedures established in the Satversme and the Saeima Rules of Procedure.

Neither the Saeima agrees with the argument of the Applicant that the reference to the keeping of animals regulations included in the Contested norm requires more detailed regulations by the Cabinet of Ministers, because the Animal Protection Law does not clearly enough and in details put forth duties of owners of animals and therefore does provide for any consequences of particular actions.

The Saeima indicates that the keeping of animals regulations imply any external normative enactment that provides for the rights or duties of a natural person regarding keeping of animals. The first part of Section 5 of the Animal Protection Law provides that an owner of an animal has the power over an animal as established in the Civil Law, except for the cases provided for in this law and other normative enactments. Moreover, according to the second part of the abovementioned section, an owner of an animal also has the duty to ensure that an animal would not disturb and endanger other persons or animals. Consequently, the law makes the addressee to understand and observe this duty and the applicants of the legal norms – to establish all factual and legal circumstances in order to examine what has happened and decide

on putting a person to trial. Consequently, the Contested Norm complies with article 92 of the Satversme and the first part of Article 7 of the Convention.

The Constitutional Court holds:

4. The second sentence of Article 92 of the Satversme provides: “Everyone shall be presumed innocent until his or her guilt has been established in accordance with law.”

The content of the norms of Chapter 8 “Fundamental Human Rights” of the Satversme has been formed by observing the proper form and laconic style of the Satversme. Therefore the fundamental human rights are provided for in the Satversme in a general wording. When establishing the content of the norms included in the Satversme, it is necessary to take into consideration international liabilities of Latvia in the field of human rights. International norms of human rights and the practice of their application serve as means of interpretation on the level of constitutional law to determine the contents and scope of fundamental rights and the principle of the law-governed state, as far as it does not lead to decrease or limitation of fundamental rights included in the Satversme (*see: Judgment of 13 May 2005 by the Constitutional Court in the case No. 2004-18-0106, Para 5 of the Concluding Part and Judgment of 18 October 2007 by the Constitutional Court in the case No. 2007-03-01, Para 11*). The duty of the State to take into consideration the international liabilities in the field of human rights follow from Article 89 of the Satversme, which provides that the State shall recognize and protect fundamental human rights in accordance with this Constitutional, laws and international agreements binding upon Latvia. This article clearly indicates that the objective of the constitutional legislator was to ensure harmony of the norms of human rights with the norms of international human rights (*see: Judgment of 30 August 2000 by the Constitutional Court in the case No. 2000-03-01, Para 5 of the Concluding Part, Judgment of 17 January 2002 by the Constitutional Court in the case No. 2001-08-01, Para 3 of the Concluding Part and Judgment of 18 October 2007 by the Constitutional Court in the case No. 2007-03-01, Para 11*).

4.1. The first sentence of the first part of Article 7 of the Convention provides: “No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed.”

This norm first of all includes the principle of prohibition of a retrospective effect of a law, though it simultaneously establishes other principles, namely, only a law can establish what is a criminal delinquency and to provide for liability for it. A law on punishment cannot be applied in an extended manner against a defendant, for instance, following an analogy (*see, e.g.: piemēram: Kokkinakis v. Greece, judgment of 25 May 1993, no 14307/88, para 52 un C.R. v. The United Kingdom, judgment of 22 November 1995, no 20190/92, para 35*).

Taking into consideration the case-law of the ECHR, it can be concluded that an action of a person (action or inactivity) shall be regarded as criminal only in the case if prohibition of such action has been established by law. A law implies the legal norms that are available and anticipated (*see: sk.:Tolstoy Miloslavsky v. The United Kingdom, judgment of 23 June 1995, no 18139/91, para 37 un C.R. v. The United Kingdom, judgment of 22 November 1995, no 20190/92, para 33*).

4.2. The principle of presumption of innocence is first of all established in the second sentence of Article 92 of the Satversme (*see: Judgment of 23 February 2006 by the Constitutional Court in the case No. 2006-22-01, Para 4*). Like the first sentence of the first part of Article 7 of the Convention, however, the words of the second sentence of Article 92 of the Satversme “in accordance with law” imply the principle of *nullum crimen, nulla poena sine lege*, namely, a person shall be held guilty and convicted only for such activities of a person (activities of inactivity) that are regarded as criminal offence in accordance with law.

It can be concluded, the content of the second sentence of Article 92 of the Satversme includes the fundamental human rights established in the first sentence of the first part of Article 7 of the Convention.

Consequently, the Constitutional Court will examine compliance of the Contested Norm with the second sentence of Article 92 of the Satversme using the interpretation of Article 7 of the Convention provided by the ECHR.

5. In order to assess whether the Contested Norm complies with the second sentence of Article 92 of the Satversme, which provides that everyone shall be presumed innocent until his or her guilt has been established in accordance with law, it is necessary to establish the following:

1) whether the law (the Contested Norm) has been adopted according to the procedure established in the Saeima Rules of Procedure;

2) whether the Contested Norm is publicly available, clear enough and unambiguous for it to serve as the basis for holding a person criminally liable.

6. The Applicant expresses a viewpoint that the Contested Norm has been adopted by violating the procedure established in the Saeima Rules of Procedure and therefore it does not comply with Article 64 and 65 of the Satversme.

6.1. Article 64 of the Satversme provides: “The Saeima, and also the people, have the right to legislate, in accordance with the procedures, and to the extent, provided for by this Constitution.”

One of the most important pre-requisites of validity of a law is observation of constitutional procedures for adoption thereof. Article 21 of the Satversme determines that “the Saeima shall draw up the Rules of Procedure for the regulation of its internal proceedings.” The Article incorporates the principle of the Saeima sovereignty, namely, the Saeima itself makes decisions on several issues, which concern its members (*see: Judgment of 13 July 1998 of the Constitutional Court in the case No 03-04(98), Para 3 of the Concluding Part and Judgment of 22 February 2002 by the Constitutional Court in the case No. 2001-06-03, Para 5 of the Concluding Part*).

Legislation process is a special procedural order, according to which the Saeima or the people achieve that a draft law elaborated in advance becomes a law, i.e. a normative enactment that occupies a certain place in the system of normative enactments. The legislation process can be divided into the following stages: legislation initiative, discussing of the draft law, adoption of a law, publishing of the law (*see: Dišlers K. Latvijas valsts varas orgāni un viņu funkcijas. – Rīga: Tiesu namu aģentūra, 2004, [XXI] pp 92*).

6.2. A legislation initiative is filing of a proposal to adopt, amend or repeal a law to the Saeima. Such a proposal can be filed only by those subjects that are ensured

with the respective rights by the Satversme. Article 65 of the Satversme provides: “Draft laws may be submitted to the Saeima by the President, the Cabinet or committees of the Saeima, by not less than five members of the Saeima, or, in accordance with the procedures and in the cases provided for in this Constitution, by one-tenth of the electorate.”

The Contested Norm was included into the Criminal Law by the Law of 25 April 2002 “On Amendments to the Criminal Law”. The draft law of this law was listed into the 7th Saeima Draft Law Register with the No 677. The draft law No 677 was submitted to the Executive Board of the Saeima by the Cabinet of Ministers. According to Section 85 of the Saeima Rules of Procedure, it was also supplemented by other draft laws submitted in accordance with the procedure established in Article 65 of the Satversme (draft laws No 766, 768, 813, 922, 992).

The draft law “On Amendments to the Criminal Law” was registered as No 992. It was submitted to the Executive Board of the Saeima by the Cabinet of Ministers on 24 August 2001. On 6 September 2001, this draft law was transferred to commissions, including the Defence and Interior Affairs Committee, which is the responsible committee.

Therefore it can be concluded, it was the Cabinet of Ministers that has submitted the draft law No. 991 and the draft law No. 677. Consequently, submission of the abovementioned draft laws to the Saeima has taken place in accordance with Article 65 of the Satversme.

6.3. Legal discussions of a draft law take place in the frameworks of the Saeima parliamentary procedure. This means screening of a draft law and elaboration of the final wording of the law, which is carried out in the frameworks of multi-stage procedures.

On 15 November 2001, the draft law No. 992 “Amendments to the Criminal Law” was examined in the first reading and it was approved.

The vote of the Saeima at the end of the first reading is a vote for reading a draft law by sections. If a draft law has been adopted in the first reading, the Saeima then decides upon the time period within which proposals would be submitted.

6.4. According to Article 47 of the Satversme, the State President has the right to initiate legislation, namely, stimulate the Saeima to elaborate a draft law. The

question regarding concretization of the norms of the Criminal Law in relation with the liability for violations of keeping of animals regulations was raised by the State President. A proposal of the State President to introduce amendments to the Criminal Law was submitted to the Saeima on 23 October 2001 according to the procedure established in Article 47 of the Satversme. The amendments would envisage liability for violations of keeping of animals regulations as results in harm done to the life and health of a person (*see: case materials, pp 104*). The proposal was transferred to the Defence and Interior Affairs Committee that is responsible for amendments to the Criminal Law.

In order to implement this proposal, the Responsible Commission formed a work group of experts. It elaborated a proposal that envisaged criminal liability also if violation of keeping of animals regulations would only result in committing light bodily injury to the victim.

According to the Satversme and the Saeima Rules of Procedure, the proposal of the work group could be advanced as a separate draft law or submitted as a proposal for another draft law. Section 94 of the Saeima Rules of Procedure provides that the draft law shall be prepared for the second reading by the responsible committee and provide its opinion concerning the submitted proposals and, if necessary, add its own proposals. The Responsible Committee is not provided with a certain timeframe for submitting proposals because they can be formulated during a committee meeting when debating on already submitted proposals or the entire draft law (for example, after having established that it is necessary to regulate certain issue). Thus the Responsible Committee ensures that a draft law is properly elaborated for examination thereof at the Saeima meeting (for instance, by partially approving any of the submitted proposals, the Committee sets its down in a more precise wording).

The Responsible Committee, at the meeting of 12 December 2001, decided to approve the proposal elaborated by the work group and include it into the draft law No 992 as its own proposal. The initial wording of the Contested Norm included into the draft law as Section 131.1 of the Criminal Law by providing liability for “violation of keeping of animals regulations as results in committing light bodily injury to the victim” (*see: case materials, pp 129 - 137*). The draft law “Amendments to the

Criminal Law” (reg. No. 992) was reviewed and approved at the second reading on 20 December 2001.

Consequently, the statement of the Applicant that the Contested Norm cannot be found in any draft law reviewed in the second reading is ungrounded.

6.5. At the meeting of 10 April 2002, the Responsible Committee merged several draft laws regarding amendments to the Criminal Law into one draft law No 677 according to Item 2 of the second part of Section 85 of the Saeima Rules of Procedure. Proposals of the Saeima Legal Bureau have also been filed for the third reading of the draft law No 922. These proposals, together with the draft law No 922 have been annexed to the draft law No. 677 and included into the agenda of the Saeima as proposal No 29 and proposal No 52. Similar proposals were also submitted by the members of the Saeima Janis Adamsons and Imants Stirans (proposal No. 28 and proposal No. 51) (*see: case materials, pp 168 - 183*). These proposals envisaged changing the place of the Contested Norm in the draft law unlike it has been decided in the second reading by including it into Section 230.1 instead of Section 131.1.

The Saeima approved the draft law No 677 at the meeting of 25 April 2002. The State President proclaimed the Law on 9 May 2002.

Consequently, it can be concluded that the procedure for adopting the Contested Norm underwent at least two readings. According to the Saeima Rules of Procedure, during revision of a draft law, the respective section, a part thereof or any amendment can be included into a legal norm in both, the second and the third reading. The aforesaid does not apply only to the cases when, according to Article 76 of the Satversme, those are amendments to the Satversme considered. In such a case, proposals can be submitted for the second and the third readings only regarding those articles (regarding amending or repealing of those articles) that have already been present in the draft law approved at the first reading.

6.6. The opinion of the Applicant that the procedure for submitting a draft law and an independent motion has been violated is ungrounded.

Each member of the Saeima has the rights to submit a proposal for draft laws that already are under revision (are submitted). A member of the Saeima in this case does not need to invite four more members of the Saeima in order to file a new draft law.

An independent motion is not the same as a proposal submitted for a draft law. Based on the first part of Section 117 of the Saeima Rules of Procedure, an independent motion shall be submitted in the form of a draft resolution (for example, by means of such resolution the Saeima can establish its position regarding certain important issue). No legal norms can be included into an independent motion.

It has already been indicated that the Contested Norm has been submitted to the second reading as a proposal of the Responsible Committee, whereas specifications for the third reading were filed as proposals of two members of the Saeima and proposals of the Saeima Legal Bureau. However, the draft law No 992 was submitted by the Cabinet of Ministers.

6.7. The Applicant indicates that legal justification and description of the necessity for adoption of the Contested Norm cannot be found in the Draft Law Register.

It is possible to agree with the opinion of the Saeima that the Saeima Rules of Procedure does not provide for the duty to include legal justification and description for the necessity of adoption of each norm into the Draft Law Register. The Saeima home page and the Draft Law Register are only of an informative character and these two ensure mainly availability of information related with the most relevant work of the Saeima.

The Saeima Rules of Order neither obligates the Saeima to include legal justification and description of the necessity for adopting of each legal norm into the transcript of the Saeima meetings. According to Section 145 and Section 146 of the Saeima Rules of Procedure, the course of the Saeima meetings shall be audio-recorded for a transcript and minutes of the Saeima shall be made, wherein the agenda, decisions adopted and results of voting are registered.

Taking into account the aforesaid, it can be concluded that the Contested Norm has been adopted in accordance with the Saeima Rules of Procedure and there are no violations of the procedure established. Consequently, the Contested Norm complies with Article 64 and Article 65 of the Satversme.

7. The Applicant holds that, according to the case-law of the ECHR, a legal norm must be available and unambiguous. The Contested Norm, however, does not

comply with these characteristics. The Animal Protection Law does not provide for duties of an owner of an animal in a detailed manner and authorize the Cabinet of Ministers to elaborate such norms. Since at the time of committing a criminal offence no such regulations of the Cabinet of Ministers have not been passed provided that the norms of the Animal Protection Law are very general, it was not possible to anticipate what the activities are that an owner of an animal should refrain from in order not to be held criminally liable.

7.1. There is no doubt that the Contested Norm has been proclaimed according to the procedures established in the Satversme (*see: newspaper "Latvijas Vēstnesis" of 9 May 2002, No 69 (2644)*); consequently, it is publicly available, also to the Applicant).

7.2. The Contested Norm provides: "Violations of the keeping of animals regulations as results in the committing of light bodily injury or moderate bodily injury to the victim [...]".

The abovementioned norm can be regarded as a blanket, namely, it does not provide for any characteristic features of a criminal offence by establishing that "these should be provided for in other legal enactments or in a generalized or approbated jurisprudence" (*Krastiņš U. Noziedzīgi nodarījumi pret dabas vidi. Rīga: Tiesu namu aģentūra, 2001, pp 19*). Inclusion of blanket norms into the Criminal Law is a generally accepted practice and is regarded as a specific measure for formulating the concept of criminal law. This allows binding the criminal law with other fields of law by providing criminal liability for violation of instructions of the respective field of law that can be regarded as socially dangerous criminal offenses, i.e. criminal penal offence. In the cases when it is not possible to include all possible manifestations of activities and inactivity in the norms of criminal law, there are blanket norms created.

The more severe the punishment is, the clearer the preconditions established by the legislator for punishing a person should be. However, the duty to adopt such kind of norms that are clear enough cannot be exaggerated. In this case, laws would become too stiff and casuistic and therefore they would no more be fair taking into consideration changeability of relations or specific circumstances of each case (*see: Judgment of the Federal Constitutional Court of Germany in the case No. BvL 4/62 BVerfGE 14, 251*). Such situation would be even more possible if the legislator would

describe each legal content instead of determining the most essential prerequisites fit for application thereof in an extended time period, including preconditions for punishing, as well as the kind and extent of a punishment.

A blanket form cannot *per se* be regarded as ambiguous only because it contains a reference to the legal norms (instructions) included in other normative enactments.

7.3. The court, when applying a blanket norm, establishes characteristic marks of a particular criminal offence and indicates the way how the objective side of the offence can manifest itself. Such approach does not contravene the case-law of the ECHR. It will always be necessary to solve certain ambiguous issues, adjust oneself to changing conditions. Therefore a more detailed explanation of legal norms is permitted in court judgments. Development of understanding of a legal norm, however, must comply with the essence of the criminal offence and should be anticipated (*see: Tolstoy Miloslavsky v. The United Kingdom, judgment of 23 June 1995, no 18139/91, para 37 un C.R. v. The United Kingdom, judgment of 22 November 1995, no 20190/92, para 33*).

The ECHR indicates that, observing definitions of a general character in a law, it would be necessary to explain their content. Doubt about the limits of a definition does not *per se* make the respective notion non-compliant with Article 7 of the Convention unless these limits are clear enough in the majority of cases. The task of courts is to disperse this doubt by means of interpretation and taking into consideration the changes established in the everyday practice (*see: Cantoni v. France, judgment of 15 November 1996, 17862/91, para 32*).

The Court reveals the content of the blanket norm of the Criminal Law in each case by ascribing it to *corpus delicti* of a particular criminal offence.

7.4. When qualifying the criminal offence of the Applicant in accordance with the first part of Section 230.1 of the Criminal Law, the court of general jurisdiction has indicated that Mr. Murans left the dogs near the doors of a shop without supervision by thus violating the provisions of Item 3 of the second part of Section 5 of the Animal Protection Law, namely, he did not ensure that the animal would not disturb and endanger other persons, in the result of which light bodily injury were committed to the victim (*see: case materials, pp. 22 - 23*). The Applicant holds that keeping of

animals regulations had to be applied when qualifying the criminal offence. These regulations are the regulations of the Cabinet of Ministers that have not been adopted at the time of committing the offence, rather than the Animal Protection Law.

Such argument of the Applicant is ungrounded. The Criminal Law is formed as a single body of regulations. A single notion “violation of regulations” is used in the wording of the blanket norms used therein (for instance, Section 74, Section 95, Section 113, Section 215 a.o.). However, the grammatical method of interpretation is only the first of methods of interpretation and it is not right to be guided only by the verbal meaning of the legal norm (*see: judgment of 20 December 2006 by the Constitutional Court in the case No. 2006-12-01, Para 9.1*).

It follows from the system of the Criminal Law that the notion “violation of regulations” applies to the cases when a person violates any provision for action (instructions) or prohibition thereof included in any external normative enactment. Such instructions and prohibitions can be included in both, laws and regulations of the Cabinet of Ministers.

Consequently, the wording “keeping of animal regulations” used in the Contested Norm shall be understood as provision for activities (instructions) regarding keeping of animals and shall be included in a certain normative enactment. If such instructions are violated or not properly observed, which results in committing damage to health of a victim, the guilty party shall be held criminally liable according to the Contested Norm.

8. Section 7 of the Law “On the Procedure by which Laws and Other Acts Adopted by the Saeima, State President and the Cabinet are Promulgated, Published, Take Effect and Being Valid” provides: “all the valid laws and regulations of the Cabinet of Ministers are binding in the whole territory of Latvia, and ignorance of the law is no excuse. Ignorance of the law does not release from responsibility.” The Animal Protection Law is binding on each owner of an animal, the second part of Section 5 thereof providing for particular duties of the owner. Under the abovementioned norm, the Applicant that owns three Central Asian Wolfhounds had the duty to ensure that the animals would not disturb and endanger other persons and animals.

At the time of commitment of the offence incriminated to the Applicant, the Contested Norm has already been applied. The Department of Criminal Cases of the Supreme Court Senate has indicated that ““Regulations of Keeping Dogs and Cats” No 291 shall be applied in practice insofar as they comply with the Animal Protection Law and as long as the first are effective”. The Department of Criminal cases of the Supreme Court Senate has also indicated that the notion mentioned in Section 230.1 of the Criminal Law, namely the notion “animal keeping regulations” is broader in its meaning than the notion “regulations of the Cabinet of Ministers”. According to the Senate, the word “regulations” includes in itself the notion “a law” [*see: Judgment of 4 January 2005 of the Department of Criminal Cases of the Supreme Court Senate in the case SKK-j-2(679)*].

Consequently, the Contested Norm permits the addressee of the legal norm, including the Applicant, to understand and anticipate his duty. As to the applicant, the Contested Norm permits establishing all factual and legal circumstances with a view to assess the ongoing processes and decide upon holding a person liable under the law.

Consequently, the Contested Norm shall be regarded as clear enough in order to hold a person criminally liable.

The Constitutional Court

Based on Article 30 - 32 of the Constitutional Court Law,

holds:

The first part of Section 230.1 of the Criminal Law complies with Article 64, Article 65 and the second sentence of Article 92 of the Satversme of the Republic of Latvia and the first sentence of the first part of Article 7 of the Convention on Human Rights and Fundamental Freedoms.

The Judgment is final and not subject to appeal.

The Judgment takes effect as on the date of publishing it.

The Presiding Judge

G. Kutris