The dialogue between the constitutional court and other courts: some examples from the perspective of Latvia

ABSTRACT

The article examines the importance of a dialogue between two constitutional institutions in Latvia – courts belonging to the court system and the Constitutional Court. Although the principle of separating the jurisdiction of the Constitutional Court and courts belonging to the court system, cooperation of courts is defined in regulatory enactments and is also implemented in practice.

The article offers an analysis of the possibilities to implement concrete control, presenting not only the requirements of concrete control, but also pointing to problems in implementing this form of cooperation. In view of the fact that the most active subject submitting applications to the Constitutional Court is a person, the article focuses upon the right of the Constitutional Court to suspend enforcement of a ruling of a court belonging to the court system. The legislator has granted this exclusive right to the Constitutional Court; however, it can be exercised only in exceptional cases. Finally, the Article reveals the attitude of the Constitutional Court towards cooperation with the Court of Justice of the European Union in the framework of the procedure of preliminary ruling. A conclusion is made that the Constitutional Court, in general, would be open to requesting a preliminary ruling, if that were necessary.

KEY WORDS: the Constitutional Court, the Court of Justice of European Union, the procedure of preliminary ruling, the concrete control, the temporary measure

Introduction

The method of dialogue has been known since awareness of the famous Plato’s dialogues. Today the dialogue has not lost its significance, since a dialogue always means communication between two parties aimed at reaching an understanding. It is a conversation aimed at understanding and establishing the truth. A dialogue is

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1 The article was prepared for a publication in August 2016.
2 Platons, Dialogi, Riga 2015.
part of every communication, every relationship, and generally a dialogue may be conducted in various forms also in the legal science.

In Latvia dialogue is an integral part of administration of justice. A conversation in courts takes place during administration of justice, when not only the parties, but also other procedural persons are involved in establishing the truth. In administration of justice a dialogue takes place also between courts: courts of general jurisdiction and administrative courts (hereinafter – the court system) and the Constitutional Court of the Republic of Latvia (hereinafter – the Constitutional Court); the Constitutional Court, on the hand, and the European Court of Human Rights and the Court of Justice of the European Union on the other hand. It can be said that the dialogue between courts may be implemented in various ways.

This article examines different forms of the dialogue between courts, which is very significant in practice and where two processes can be observed: interaction between legal proceedings of the Constitutional Court and the courts of court system. The article also analyses the interaction between the Constitutional Court and the Court of Justice of the European Union, which may be manifested as implementation of a preliminary ruling.

I. The principle of separation of competences: courts of the court system and the Constitutional Court

The courts of the court system and the Constitutional Court in Latvia are two of the seven constitutional institutions, which realize state power. Both constitutional institutions: the court system and the Constitutional Court exercise the judicial power in accordance with the principle of separation of power.

The courts as a constitutional institution include courts of the so-called general jurisdiction, which hear civil cases, criminal cases, as well as review cases of administrative violations. Pursuant to Article 82 of the Satversme the court system includes

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6 Article 82 of Satversme states: “In Latvia, court cases shall be heard by district (city) courts, regional courts and the Supreme Court, but in the event of war or a state of emergency, also by military courts.” The Constitution of the Republic of Latvia. [http://www.saeima.lv/en/legislation/constitution/], [access: 15 July 2016].
also administrative courts. In Latvia three tiers of courts exist, ensuring hearing of a case in three instances: the first, appeal and cassation instance.

The Constitutional Court is an institution of judicial power, authorised with an exclusive function – to safeguard the constitution, by ensuring the rule (priority) of the constitutional law – the Satversme, and constitutional justice. In difference to courts of the court system, the essence of administering justice at the Constitutional Court is to solve special or specific disputes regarding the compatibility of legal provisions with the provisions of higher legal force. Constitutional courts are not courts like others. Constitutional courts are enabled to perform a specific task within the national constitutional landscape, i.e., the constitutional review of national legislation.

The principle of functional division between the courts of the general court system and the Constitutional Court essentially follows from Article 82 and 85 of the Satversme. The functional distinction of judicial institutions is absolute, since no judicial institution has the right to assume the authorisation granted to another. The functional division of judicial institutions was explained also in one of the first cases heard by the Constitutional Court. “The courts belonging to the Latvian system of general jurisdiction courts have the right to hear civil law disputes, criminal cases, as well as cases that follow from administrative legal relationships. However, in accordance with the law they have no right to declare invalid acts of regulatory nature. For this purpose in Latvia in 1996 a constitutional court, not belonging to the system of general jurisdiction courts, was established – the Constitutional Court, which, as stipulated by Article 85 of the Satversme, has the right to examine the compatibility of laws and other enactments with the Satversme and other laws”.

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10 Article 85 of Satversme provides that “In Latvia, there shall be a Constitutional Court, which, within its jurisdiction as provided for by law, shall review cases concerning the conformity of laws with the Constitution, as well as other cases conferred within the jurisdiction thereof by law. The Constitutional Court is entitled to declare laws or other enactments or parts thereof invalid. The Saeima shall confirm the appointment of judges to the Constitutional Court for the term provided for by law, with a majority of the votes of not less than fifty-one members of the Saeima.” The Constitution of the Republic of Latvia. [http://www.saeima.lv/en/legislation/constitution/], [access: 15 July 2016].

The exclusiveness of the function of the Constitutional Court does not mean that constitutional institutions lose the right to exercise general right of constitutional control, since everybody, in fulfilling the entrusted functions, has the duty to abide by and safeguard the constitution\textsuperscript{12}. Moreover, everybody applying the law must apply the Satversme directly\textsuperscript{13}. Courts, within the framework of each case, must verify the compatibility of the applicable norm with legal norms of higher legal force, because the court may apply the legal norm only if the court holds that it complies with the Satversme\textsuperscript{14}. As noted by L. Garlicki, in the modern constitutional state, each and every judge must first establish the content of the relevant norm, and this requires the simultaneous application of statutory, constitutional, and supranational provisions\textsuperscript{15}. If the court holds that the norm does not comply with the constitution it suspends judicial proceedings in the case and submits application to the Constitutional Court (see further). Thus, the assessment of the constitutionality of legal norms falls also within the competence of courts belonging to the court system. However, only the Constitutional Court has an exclusive jurisdiction to recognise legal norms as being incompatible with legal norms of higher legal force and pronounce them invalid. A Constitutional Court judgement differs from a judgement of other courts, because judgement of a court belonging to the general court system pertains only to the legal relations of concrete persons within a concrete case (\textit{inter partes}) and is not directly applicable in adjudicating other cases. A judgement by the Constitutional Court has other features: it has a universally binding force (\textit{erga omnes}), it is final (cannot be appealed), public, directly applicable and irrevocable\textsuperscript{16}.

It may be concluded that the task of the Constitutional Court is to ensure the existence of a legal system, where a regulation that is incompatible with the Satversme is precluded, as well as to provide its assessment on constitutionally important issues, but not to deal with concrete civil disputes, administrative cases and criminal cases. This also means that the Constitutional Court, in exercising its competence, reviews the constitutionality of a legal norm that is included in regulatory enactments, but not

\textsuperscript{13} On terminating legal proceedings in the case No. 20120301 “On the Compliance of the first part of Section 11 and the first part of Section 25 of the Law “On National Referendums and Legislative Initiatives” with Article 1, 77 and 78 of the Satversme”: Decision of the Constitutional Court on 19 December 2012, para 18.2. \textless http://www.satv.tiesa.gov.lv/en\textgreater , [access: 15 July 2016].
the outcome of interpretation and application of a legal norm\textsuperscript{17}. It is not the task of the Constitutional Court to re-examine the interpretation of legal norms performed by courts of the court system\textsuperscript{18}.

II. Applications by court to the Constitutional Court
– as a specific form of dialogue between courts

In constitutional courts, which are based upon the European model, judicial review can be realized in two basic forms: abstract control and concrete control. In contrast to abstract control, concrete control is applied with regard to actual legal cases, when a question about constitutionality of law arises within ordinary litigation\textsuperscript{19}. Or concrete control is concrete because an intervention by the constitutional court constitutes a stage in ordinary litigation at courts\textsuperscript{20}.

As concrete review of statutes has become a common feature of all the constitutional courts\textsuperscript{21}, the classical concrete control exists also in Latvia, since amendments to the Constitutional Court Law were adopted\textsuperscript{22}. That is, pursuant to Section 191 of the Constitutional Court Law, an application to the Constitutional Court can be submitted by the court, which adjudicates a civil matter\textsuperscript{23} or criminal matter\textsuperscript{24}, the court, which adjudicates an administrative matter\textsuperscript{25}, as well as the Land Registry Office judge, in performing an entry of immovable property or connected corroboration of rights in the Land Register. Until now no judge of the Land Registry Office


\textsuperscript{20} The Oxford Handbook of Comparative Constitutional Law, M. Rosenfeld, A. Sajó (ed.), Oxford 2012, p. 823.

\textsuperscript{21} L. Garlicki, Constitutional courts…, p. 46.; F. Allan, Central European Constitutional Courts in the Face of EU Membership, Brill 2013, p. 69.

\textsuperscript{22} Grozījumi Satversmes tiesas likumā (Latvijas Vēstnesis, 460/464 (2371/2375), 20.12.2000.).


has submitted an application to the Constitutional Court, which could be explained by the fact that the necessary amendments to the Land Register Law have not been adopted yet. This fact, on the one hand, is paradoxical, since 15 years have passed since the concrete control was introduced, but the legislator is still late in introducing the necessary amendments to the Land Register Law. However, this deficiency does not prohibit judges of the Land Registry Offices from applying the norms of the Constitution directly, as well as the norms of Section 191 of the Constitutional Court Law, which grant them the right to submit an application to the Constitutional Court.

The term “court”, which can exercise the rights to stand before the Constitutional Court, comprises all courts in Latvia, i.e., courts of first instance, appellate courts and also the Supreme Court or cassation court. To be more precisely, the term “court” means the corps of judges, who decide on the case. That is, the legislator in Latvia has granted this right to all courts, not only the Supreme Court, which is to be assessed positively, in view of the need to ensure fair administration of justice. A court may request the Constitutional Court to review the constitutionality of only such legal norm, which, firstly, complies with the jurisdiction of the Constitutional Court, and those norms, which, pursuant to the Constitutional Court Law, may be contested by courts. The courts may contest at the Constitutional Court regulatory enactments and parts thereof, but not individual legal acts. This means that, for example, a court’s request to the Constitutional Court to review a draft law is incompatible with the jurisdiction of the Constitutional Court as such. Secondly, an application by a court may never be abstract, which means that a court may contest [request to examine] at the Constitutional Court only a legal norm that has to be applied in a concrete case under examination. Or the dispute may concern only such legal norm, which is needed to adjudicate a certain case. This requirement relates to the

26 The courts have the right to submit an application regarding initiation of a matter regarding compliance of laws or international agreements signed or entered into by Latvia with the Constitution (also until the confirmation of the relevant agreement in the Saeima), compliance of other laws and regulations or parts thereof with the norms (acts) of a higher legal force (Section 16, Clauses 1-3), as well as compliance of Latvian national legal norms with those international agreements entered into by Latvia that are not in conflict with the Constitution (Section 16, Clause 6). Constitutional Court Law. <http://www.satv.tiesa.gov.lv/en/2016/02/04/constitutional-court-law/>, [access: 15 July 2016].
essence of concrete control: to involve the Constitutional Court in correct resolution of a dispute. This, in turn, means that a legal norm, the constitutionality of which is questioned by the court, will not be applied yet. In addition to this, administrative courts may contest a norm that has been applied by an institution, since the dispute will concern an application of a legal norm at an institution. Thus, the application submitted by a court can be only concrete – related to the adjudication of a concrete case and if the constitutionality of a legal provision is a precondition for adjudicating a concrete case. At the same time application regarding concrete control may not be “a preliminary question on the interpretation of the legal provision to be applied”\(^{30}\). Namely, a petition of courts [concrete control] is not the same instrument as the preliminary reference procedure of the Court of Justice of the European Union. It is comparable, but not the same\(^{31}\).

Simultaneously with a decision on turning to the Constitutional Court, the court decides also on suspending legal proceedings. The decision to suspend legal proceedings essentially is criticised, since this delays adjudication of the case in court\(^{32}\). However, legal proceedings are suspended to ensure that the particular case is resolved within the framework of the Satversme, i.e., that a norm that is compatible with the Satversme is applied in the case. The judgement by the Constitutional Court and also the interpretation of the legal norm provided in the decision on terminating legal proceedings has erga omnes force. This means that the court, where the hearing of a case has been suspended, will have to resolve it by taking into consideration the ruling by the Constitutional Court.

The Constitutional Court is comparatively strict in observing of all requirements set for the petition of concrete control. The practice shows that major problems are encountered in separating the competence of both constitutional institutions or in achieving that courts, by turning to the Constitutional Court, would not be searching for answers on the most appropriate way of applying the particular norm in the concrete situation, but would deal with issues of genuinely constitutional nature. Therefore the Constitutional Court has often noted in its rulings that application of legal norms in compliance with the Satversme involves finding of the applicable legal norm and appropriate interpretation of it or using methods of interpretation,

\(^{30}\) On terminating legal proceedings in case No. 2010-09-01 “On Compliance of the Words “if These transactions Have not Been Declared in Accordance with Procedures Prescribed in Paragraph One of this Section – a Fine in the Amount of 15 Percent of the Total Amount of These Transactions, if not Provided Otherwise in This Section” of the Second Part of Section 30 of the Law “On Taxes and Fees” (Wording of 4 December 1997) with Article 1 of the Satversme (Constitution) of the Republic of Latvia”: Decision of the Constitutional Court on 13 October 2010, para 12. <http://www.satv.tiesa.gov.lv/upload/lem_izb_2010-09-01.htm>, [access: 15 July 2016].


assessing the intertemporal and hierarchic application, use of case law and legal doctrine, as well as development of law. This, in turn, means that prior turning to the Constitutional Court the court must verify, whether it is not possible to refute the doubts that have arisen with regard to incompatibility of this legal norm with a norm of higher legal force by using legal methods. If during the hearing of the case the Constitutional Court establishes that the court has not used legal methods in full for resolving the particular legal dispute, it, most probably, will terminate legal proceedings. The Constitutional Court has underscored: it should be the final institution of rights protection and should become involved in dispute resolution only after all other available remedies have been exhausted.

Applications submitted by courts show that administrative courts are the most active, among them also the Department of Administrative Cases of the Supreme Court, which could be explained by both very high qualification of judges and particularities of administrative cases. Statistics reveal that (until April 2016) 65 cases had been initiated with regard to applications by court, but in general courts have turned to the Constitutional Court 84 times. This means that the Constitutional Court has recognised more than 20 applications as being incompatible with the requirements for initiating a case that are defined in the Constitutional Court Law. The greatest activity of courts in submitting applications was observed in the period from 2010 to 2012, which are the so-called years of economic crisis, which in general mark great inflow of applications.

Although constitutional complaints dominate in the Constitutional Court (until April 2016 the Constitutional Court had received more than 9000 applications from


persons), the legislator had intended an application by a court to be the primary legal remedy. Moreover, looking at it from the legal positions of a person, an application by a court is economically more advantageous. Resolution of a dispute that affects the interests of a concrete person may be faster with the court’s mediation. This is because a constitutional complaint is a subsidiary measure, which demands, first of all, the use of other legal remedies – courts. Hence, if a dialogue exists – in the framework of concrete control – between courts of the court system and the Constitutional Court, existence of an effective system for rights protection is ensured in Latvia. Courts of the court system and the Constitutional Court share one aim – to find a fair solution to a dispute, compatible with legal norms; however, abiding by “the allocation of roles”.

III. The right of Constitutional Court to suspend enforcement of a court ruling – a dialogue or competition?

Throughout the world application of the principle of subsidiarity is one of the most typical features of the constitutional complaint. This means that the Constitutional Court is to be used as the last legal remedy, if the protection of fundamental rights had been impossible in other courts. The outcome of using other legal remedies with respect to the particular person, obviously, will be an adopted ruling, which usually is and may be a ruling or a judgement by a court. However, at the Constitutional Court the person will apply to contest the legal norm, which is the basis for the dispute, and not this ruling by the court. At the same time effective legal proceedings, as well as the rights that follow from Article 92 of the Satversme impose the obligation to develop legal proceedings before the Constitutional Court in a way that would allow it to reach its aim. One of the measures for reaching it is envisaging temporary measures. The rights of the Constitutional Court to decide

40 A. Rodiņa, Konstitucionālās sūdzības teorija un prakse Latvijā, Rīga 2009, p. 171.
41 Article 92 says: “Everyone has the right to defend his or her rights and lawful interests in a fair court. Everyone shall be presumed innocent until his or her guilt has been established in accordance with law. Everyone, where his or her rights are violated without basis, has a right to commensurate compensation. Everyone has a right to the assistance of counsel.” The Constitution of the Republic of Latvia: <http://saeima.lv/en/legislation/constitution/>, [access: 15 July 2016].
on suspending enforcement of a court ruling is a temporary measure, which has been legally enshrined in the fifth part of Article 192 of the Satversme.\(^{44}\) Case law of the Constitutional Court shows that temporary measures are to be considered as being an extraordinary element in legal proceedings at the Constitutional Court and are to be applied solely for reaching important purposes.\(^{45}\) Moreover, application of these measures is based upon the principle: unless it is ruled otherwise, the ruling is to be enforced or the initiation of a case at the Constitutional Court \emph{per se} does not influence enforcement of rulings linked to the contested norm.\(^{46}\) This presumption has been created also with the aim to prevent persons, who are dissatisfied with a court’s ruling in a concrete case, from automatically using the Constitutional Court as a means for delaying enforcement of the ruling.\(^{47}\) The Constitutional Court has drawn a clear line between the concept of “ruling” and that of “legal proceedings”, stating that the provisions of the Constitutional Court Law do not include the right of the Court to suspend legal proceedings in another court.\(^{48}\) It is the right of the Constitutional Court “to suspend enforcement of a ruling in a civil case, a criminal case or an administrative case”.\(^{49}\) Whereas in defining those exceptional cases, when the Constitutional Court has the right to suspend enforcement of a ruling, it refers to two criteria: if enforcement of a ruling before the ruling by the Constitutional Court enters into force might make the enforcement of the judgement by the Constitutional Court impossible or cause significant harm for

\(^{44}\) The fifth part of Section 19.2 of the Constitutional Court Law provides: “Submission of a Constitutional complaint (application) shall not suspend the implementation of the court adjudication except for the cases when the Constitutional Court has decided otherwise.” Constitutional Court Law. [http://www.satv.tiesa.gov.lv/en/2016/02/04/constitutional-court-law/], [access: 15 July 2016]; On temporary legal remedies in other states see: study on individual access to constitutional justice. p. 85-92. [http://www.venice.coe.int/webforms/documents/CDL-AD%282010%29039rev.aspx], [access: 15 July 2016]; Temporary measures are applied also by the European Court of Human Rights, where this legal instrument was applied to Latvia in the so-called Čalovskis Case. Application No. 22205/13 “Čalovskis pret Latviju”. Ceturta palāta ECHR-LE2.2.G CMG/ZR/atu 2013. gada 8. Augustā, “Jurista Vārds”, 13.08.2013, No. 33 (784); Čalovskis v. Latvia, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-145791], [access: 15 July 2016].


\(^{49}\) Decision of 5 March 2010 by the Assignments Sitting of the Constitutional Court in case No. 2010-08-01, para 3. Unpublished, available at the Constitutional Court.
the applicant\textsuperscript{50}. Or the Constitutional Court has the obligation to suspend only such rulings that “might significantly infringe upon the applicant’s fundamental rights, for the protection of which a case has been initiated at the Constitutional Court, or that might make the legal proceedings before the Constitutional Court meaningless”\textsuperscript{51}.

Thus – in exceptional cases, if a constitutional complaint has been submitted, then the interaction between the Constitutional Court and courts of the court system manifests itself as application of temporary measures. Thus far temporary measures have been applied only in some cases, which shows that the Constitutional Court respects the rulings made by courts of the court system, respects their authority, at the same allowing suspending of rulings when it is really necessary.

**IV. The Constitutional Court and the Court of Justice of the European Union: procedure of preliminary ruling**

Currently the opinion that constitutional courts should be separated from the European Union law has changed. Even before a view was expressed that constitutional courts have been deemed “enemies” of the Court of Justice of the European Union (thereinafter CJEU)\textsuperscript{52}. Although basically application of the European Union law has been left in the care of courts of the court system, nevertheless constitutional courts have played a key role in designing the European legal space, in regulating the relations between the national and the European legal orders, and in addressing the more systemic legal and constitutional issues of European integration\textsuperscript{53}. Constitutional Courts have provided and can provide invaluable inputs into the activity of the European institutions, including the Court of Justice of the European Union\textsuperscript{54}.

One of the issues to be foregrounded in assessing the dialogue between CJEU and the Constitutional Court is linked to the possibilities of a constitutional court


\textsuperscript{54} M. Dicosola, C. Fasone, I. Spigno, Foreword…, p. 1317.
to refer an issue to CJEU for a preliminary ruling. This issue, undoubtedly, is relevant also in Latvia, since requesting and providing of preliminary rulings is cooperation between the national courts and CJEU with the aim of ensuring uniform application of the European Union law.\(^{55}\) It is known that the constitutional courts of Germany, Belgium, Austria, Lithuania, Italy, Spain, France, Slovenia, and Poland have made preliminary references to the CJEU\(^{56}\). Some commentators have interpreted the recent references as the beginning of a new era of “real constitutional dialogue,” ending the reluctance of constitutional courts towards European integration\(^{57}\). And in general CJEU is very open to constitutional courts. Therefore a logical question follows: is the Constitutional Court of Latvia also ready to turn to CJEU?

For the first time in its jurisprudence, the Constitutional Court touched upon the issue of its right or duty to submit a preliminary question in 2008. In the case, where the norms of the law “On Prevention of Laundering of the Proceeds from Crime and Financing of Terrorism” was evaluated, the applicant requested the Constitutional Court as the final instance of national judicial institutions to turn to CJEU according to the third part of Article 267 of the EC Treaty\(^{58}\). It is known that, if a question on interpretation of the treaties or the validity and interpretation of acts of European Union institutions is raised in a case pending before a court or tribunal against whose decisions there is no judicial remedy under national law, that court or tribunal must bring the matter before the CJEU. The Constitutional Court noted that in separate cases higher instance courts of the Member States, when facing issues of the EU law, are not obligated to refer to the CJEU, if a question concerning the interpretation of Community law raised before them is not relevant; i.e., if the answer to that question, regardless of what it may be, can in no way affect the outcome of the case; the Court of Justice has already explained this question; the correct application of Community law may be so obvious as to leave no scope for any reasonable doubt as to the manner in which the question raised is to be resolved\(^{59}\). As the judgments of the Constitutional Court are not subject to appeal, the Constitutional Court verified whether interpretation of the applicable norm was indispensible. It found that it

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\(^{57}\) M. Claes, Luxembourg, Here We Come?…, p. 1340.


was not necessary to apply to the CJEU in this particular case. However, the most important aspect in this: for the first time Constitutional Court recognized itself as “a court”, which can apply to the CJEU.

The second case, where possibility of a preliminary ruling was assessed, was examined in 2015. In this case it was necessary to establish, what kind of content is included in the EU legal norms on granting state aid to commercial companies experiencing financial difficulties, as well as to analyse a decision by the European Commission on state aid. In this instance the Saeima noted that if the Constitutional Court had doubts regarding the content of an EU legal norm, then it should consider, whether it was not necessary to request a preliminary ruling from CJEU. The Constitutional Court also in this case concluded that “the content of legal regulation on state aid is clear and unequivocal. Thus, it follows from the materials in the case under review that the content of applicable EU legal norms is clear. Therefore it is not necessary for the Constitutional Court to request the preliminary ruling”.

National courts, as well as courts of last instance and also constitutional courts have a crucial role in defending the rights of the person. This aim can be realized also in collaboration with CJEU. The so-called “green light procedure” is not mandatory, it is recommended as an option to establish a mutually beneficial dialogue between CJEU and national courts. Therefore researchers have argued of the necessity of going beyond “judicial dialogues” and “conflict-and-power” approaches. Submitting a question for preliminary ruling sometimes is characterized as “a milestone event”, which may even herald the start of a new era. However, as it follows from the case law of the Constitutional Court, it does not distance itself from cooperation with CJEU, but rather is open to cooperation. And it seems that it is only a matter of time, before the Constitutional Court might request a preliminary ruling for the first time.

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Conclusions

A dialogue between courts may be one of the factors facilitating quality in administration of justice\(^ {66}\). It is the task of the judicial power to ensure that the Satversme and other valid regulatory enactments are abided by. A dialogue promotes public trust in courts. In other words, constitutional courts and other courts are traveling on the same road, but not necessarily according to the same rules and not necessarily in the same direction\(^ {67}\). But dialogue or cooperation between courts may exist if there is a mutual respect and a common will to act together\(^ {68}\).

Although the principle of separating the jurisdiction of the Constitutional Court and courts of the court system is implemented in Latvia, a dialogue between these two constitutional bodies is implemented in various ways, thus, in general, reaching the aims that have been set for democratic states governed by the rule of law. Both an application by a court to the Constitutional Court and the rights of the Constitutional Court to suspend enforcement of a court’s ruling in exceptional cases may ensure the protection of the fundamental rights of a person, the most important subject of constitutionalism. Likewise, possible cooperation of the Constitutional Court with CJEU in the form of a positive dialogue – requests of preliminary rulings – means a cooperation-oriented attitude, focused upon establishing the highest value – the justice.

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