

SLOVAK CONSTITUTIONAL COURT: RULING OF THE CONSTITUTIONAL COURT IN AN INDIVIDUAL COMPLAINT AS A SOURCE OF LAW FOR AN EXECUTION PERFORMANCE IN A CONTINENTAL LEGAL SYSTEM

**ANALYSIS OF THE CONSTITUTIONAL COURT JUDGEMENT
OF 13 APRIL 2010, RULING NO. III ÚS 322/2010-37**

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Abstract

This review deals with the Finding of the Constitutional Court of the Slovak Republic of 13 April 2010, file ref.: III ÚS 322/2010 – 37, and practice of general courts in the Slovak Republic which was evoked and which has been realised since. It is a key decision that a number of other decisions of general courts are based on, and even at the present time the given decision has been applied regardless of the development of the situation that has pointed to the incorrectness of the general courts' acts in the realised decision-making practice. Thus, the decision-making practice has diverged into various forms with various legal effects on the legal entities despite the fact that the highlighted Finding of the Constitutional Court has remained unchanged.

Key words: *constitutional court, Slovakia, legal system*

FACTS OF THE CASE

In the given case the Constitutional Court was deciding on the legal position of a Court Executor and his right to perform an execution based on the proposal of an entitled person (creditor). Under § 38 para1 of the Execution Code, an execution proceeding shall be started only upon the motion for which the entitled person (creditor) or a person who has proved that the right from execution title has been transferred (legal successor of the creditor) is procedurally legitimated.

One of the persons who voluntarily decided to use the Executor's services was a business company - POHOTOVOSTĚ, s.r.o. On 8 September 2008 POHOTOVOSTĚ, s.r.o. filed a motion to perform execution in the form of a record motion in order to enforce one of her financial claims which arose in accord with the loan provided to a

natural person V.K.. In the motion, the company asked the Executor as a Court Executor to enforce her financial claim using all the relevant legal ways of execution to make it settled as soon as possible.

The Court Executor was empowered by the general court to perform the execution. During the performance of the execution the debtor has raised an objection of prejudice against the Court Executor and addressed it in the letter written in person to the general court. As the only reason for his objection of prejudice it was given that the Court Executor had been for a short period of time, in the time before he became an Executor, the creditor's (company POHOTOVOSTĚ, s.r.o.) employee. On 4 June 2010, the general court – District Court in Žiar nad Hronom delivered to the Court Executor the decision written on 25 May 2010 by which it decided on the objection of prejudice as follows: the Executor “... *is not excluded from performance of the execution*“. The given decision of the court came into effect on 21 June 2010. After validity of the court's decision the Court Executor, bound by the court's authorisation and relevant provisions of the Execution Code, legally continued to perform the execution activity. The obliged person (debtor V.K.) came into view that the decision of the District Court in Žiar nad Hronom of 25 May 2010 presented an interference above the admissible extent into his fundamental rights, specifically to his right to judicial protection guaranteed by Art. 46 para 1 of the Constitution of the Slovak Republic and his right to a fair trial guaranteed by Art. 6 para 1 of the European Convention for the protection of human rights and fundamental freedoms (hereinafter as Convention). Therefore, the debtor - represented by his advocate, filed the constitutional complaint to the Constitutional Court of the Slovak Republic in accordance with Art. 127 para 1 of the Constitution of the Slovak Republic. After having accepted the complaint to the further proceeding by its decision of 21 June 2010, file ref.: III. ÚS 322/2010 - 14, the Constitutional Court discussed and decided the matter with no proceeding given and without any probation done.

RELEVANT PROVISIONS OF NATIONAL LEGISLATION

The Constitution of the Slovak Republic

Article 127

(1) The Constitutional Court decides on complaints by natural persons or legal persons objecting to violation of their basic rights and freedoms, or the basic rights and freedoms ensuing from an international treaty ratified by the Slovak Republic and promulgated in a manner laid down by law, unless other court makes decision on the protection of such rights and freedoms.

(2) If the Constitutional Court satisfies the complaint, it will state in its decision that a [disputed] final decision, measure, or other act violated the rights or freedoms pursuant to paragraph 1 and it will annul such decision, measure, or other act. If the violation of rights or freedoms pursuant to paragraph 1 has arisen due to inactivity, the Constitutional Court may order to the person that violated these rights or freedoms to act in that matter. The Constitutional Court may at the same time return the case for further proceeding, prohibit further violation of basic rights and freedoms or human rights and fundamental freedoms ensuing from an international treaty ratified by the Slovak Republic and promulgated in a

manner laid down by law or, if possible, order the person that violated the rights or freedoms pursuant to paragraph 1 to restore the state before the violation.

Act no. 233/1995 Coll. on Court Executors and Execution (Execution Code) and on Changes and Amendments to Some Acts as amended

§30

(1) The Executor is dismissed from performance of Execution Act, if, regarding to his attitude towards the thing, which represents the object of execution, towards the execution participants or their deputies, there are any doubts about his impartiality.

(2) Circumstances related to the Executor's procedure of Execution Act do not represent the reason for his dismissal. If the objection of prejudice corresponds only to these circumstances, it will not be taken into account by the Court.

(3) As far as the Executor is familiar with any facts related to his dismissal, he is due to notify the Court immediately. Until the declaration of the Decision pursuant to Article 7, the Executor is entitled to perform only such kind of execution procedures, which do not allow the stay; however, this is not applicable to the Execution performed under the Decision executable pursuant to § 26 of Act No. 231/1999 Coll. on the State Support as amended by later regulations.

(4) Participants of Execution Act are entitled to express their opinion on the entity of acting Executor.

(5) Participant can raise an objection related to the prejudice of Executor within five days outdated from the delivery date of notification on Execution Act commencement or within five days outdated from the date, when he could hear of reason for which the Executor has been dismissed. Objections of the Debtor towards the Executor do not refer to stay.

(6) The objection of prejudice must contain who is it raised to, the reason of eventual Executor's dismissal and the date on which the participant, raising the objection of prejudice, has been notified about this reason.

(7) The Executor will submit the case to the Court and the Court will make decision about the objection without an unnecessary stay. The Court will decide within ten days outdated from the date of submitting the case whether the Executor is being dismissed or not.

(8) The Executor will not take into account repetitively submitted objections of prejudice related to the same reason, if the Court has decided about them yet; the case will not be submitted to the Court in this case.

(9) The decision, whether the Executor has been dismissed or not, will be delivered to the Beneficiary, Debtor and the Executor.

(10) Pursuant to Art. 7 there is no rectification applicable against the Court decision.

(11) If the Executor has been dismissed by the Court from the performance of Execution, the Execution Act will be continuously processed by that Executor, who has been proposed by the Beneficiary and who has been authorized for such an Act by the Court.

Act No. 38/1993 Coll. On the organization of the Constitutional Court of the Slovak Republic, Proceedings before the Court and the Status of Its Judges

§56

- (3) If the Constitutional Court comply with the complaint, it may:
- a) order that the party, violating the fundamental right or freedom through omission, shall try the case under special regulations,
 - b) revert the case to further proceedings
 - c) prohibit continued violation of fundamental right or freedom
 - d) order to that party which has violated fundamental right or freedom to recover the state, prior to the violation of fundamental right or freedom

...

(6) If the final judgement, measure or other intervention is being quashed or if the case is being reverted by the Constitutional Court for further proceedings, the party who has issued the decision, decided on the measure or caused other intervention shall be liable to rehear the case and to decide it again. In such proceedings or procedure the concerned authority shall be bound by the Constitutional Court's legal opinion.

(7) Whosoever has issued a decision in a case, decided on a measure or made other intervention, shall be bound by the decision under clause (3) which is enforceable on its delivery.

THE CONSTITUTIONAL COURT DECISION...

Finding of the Constitutional Court of 13 April 2010, file ref.: III ÚS 322/2010 – 37, contains the following merit decision: “1. *Fundamental right of V. K. to judicial protection in accordance with Article 46 para 1 of the Constitution and right to fair trial in accordance with Article 6 para 1 of the Convention by procedure and decision of the District Court in Žiar nad Hronom, file ref. 5 Er 934/2008 of 25th May 2010, was violated. 2. The decision of the District Court in Žiar nad Hronom, file ref. 5 Er 934/2008 of 25th May 2010, is then cancelled and the matter is re-introduce to the court for further proceeding. 3. The District Court in Žiar nad Hronom is obliged to concede compensation of court fees to V. K. amounting to 110.98 € (in words – one hundred and ten euro and ninety eight cents) to the account of his adovocate JUDr. I. Š., B., not later than two months from validity day of this decision. 4. It does not accommodate in the rest of the Complaint.*“

As the Constitutional Court cancelled the decision of the District Court in Žiar nad Hronom of 25 May 2010, the general court was obliged to issue a new decision in the matter of objection of prejudice of an Executor in execution proceeding recorded under file ref.: EX 7415/08. The District Court in Žiar nad Hronom decided the case through repeated decision of 18 July 2011 in a completely different manner so that this time it accommodated the objection of the Executor and excluded the Executor from the execution registered under file ref.: EX 7415/08. The General Court in the reasoning of its decision did not state at all where it found the prejudice of the Executor, it only referred to the conclusions taken by the Constitutional Court in the Finding of 13 April 2010, file ref.: III ÚS 322/2010 – 37. The Court Executor received the given decision on 26 July 2011 whilst he learnt only from the content of this decision that the debtor had raised a constitutional complaint against original decision of the District court which had not allow an

exclusion of the Executor from the execution performance, and at the same time he found out for the first time that the Constitutional Court had decided on constitutional complaint by a cassation decision. The decision of the District Court in Žiar nad Hronom of 18 July 2011 came into force and the Court Executor was therefore obliged to stop his performance of execution in accordance with § 30 of the Execution Code.

WHY THE DECISION IS IMPORTANT IN PRACTICE AND WHAT MAY FOLLOW?

The Finding of the Constitutional Court of 13 April 2010, file ref.: III ÚS 322/2010 – 37 significantly influenced the real and legal position of the Court Executor not only in relation to his performance of execution registered under file ref. EX 7415/08 but also in relation to performance of any other execution of the entitled person – business company – POHOTOVOSTĚ, s.r.o. regardless of the fact whether it concerns the execution in process or any future execution for performance of which the Executor has not been given a motion. It is also possible to consider whether the procedure of the Constitutional Court in the proceeding registered under file ref.: III ÚS 322/2010 as well as the Finding of the Constitutional Court itself did not in a significant manner non-legitimately limited the Executor's rights, mainly his right to a fair trial guaranteed by Art. 6 para 1 of the Convention as well as his right to peaceful enjoyment of property guaranteed by Art. 1 of Protocol 1 of the Convention. Such consideration is possible because the Constitutional Court:

- a) Without giving any notice to the Executor on a complaint filed and a proceeding in process in the course of which it was about to judge his prejudice against the entitled person – business company POHOTOVOSTĚ, s.r.o.;
- b) Without providing the Executor with the information (in writing or orally) about the content of the written motions of the parties to the proceeding on concrete control of constitutionality;
- c) Without challenging the Executor to express his position to all the claims that were introduced by the debtor via his lawyer before the Constitutional Court aimed at the Executor's exclusion from the execution performance;
- d) Disabling the Executor to express his opinion on matter of prejudice and matter of procedure of the District Court in Žiar nad Hronom with a view to influence the Constitutional Court's decision;

has decided with final validity (because under Art. 133 of the Constitution of the Slovak Republic there is no possibility of lodging an appeal against a decision of the Constitutional Court and thus no remedy is allowed against decision of general court on the substitution of the Executor) on the Executor's legal status whilst this decision has evoked legal effect pro futuro and definitely deprived the Executor from any possibility to perform, now and in the future, any execution made to enforce the debt of company POHOTOVOSTĚ, s.r.o.

Because of keeping the complexity of the analysis provided, it is necessary to state that in the constitutional complaint the debtor did object – as stated by the Constitutional Court at page 3 of the Finding – against the ruling of the District Court in Žiar nad Hronom of 25 May 2010, No.: 6408211025, stating that

“reasoning (of the District court) is at expense of the amenability of judicial review, and at expense of the procedural right to convincing reasoning in accordance with § 157 para 2 of the Code of Civil Procedure“ and therefore “the Applicant claimed that the Constitutional Court expresses in its Finding an opinion that due to the procedure and Ruling of the District Court file ref. 5 Er 934/2008 of 25 May 2010 there was a violation of his fundamental right to judicial protection in accordance with Article 46 para 1 of the Constitution and the right to a fair trial in accordance with Article 6 para 1 of the Convention and Article II-107 of the Charter, that the Court recalls the listed Ruling and concedes compensation of court fees to the Applicant.”

The debtor did not, before the Constitutional Court, find a fault with the District Court in Žiar nad Hronom in incorrect legal appreciation of the matter of the Executor’s prejudice in relation to the entitled person – company POHOTOVOSTĽ, s.r.o. but he remained only at reservation of insufficient reasoning of the court decision. Insufficient reasoning of the court decision in the matter of the Executor’s prejudice would indeed influence the debtor’s rights, but only if the district court could really substantially deal with the matter of prejudice based on the debtor’s motion. In the given case, the district court could not, in the proceeding which preceded the proceeding before the Constitutional Court, have come to substantial appraisal of the prejudice as no legal conditions were fulfilled to act so. The Constitutional Court dealt with this matter also without having met all legal conditions. Fundamental fact in the assessment of the Constitutional Court’s procedure and its Finding aimed at evaluation of interference with the Executor’s fundamental rights is the fact that the Constitutional Court without:

- a) being legitimated by V.K.’s motion to decide the matter of the Executor’s prejudice in the execution proceeding (under § 20 para 3 of Act No. 38/1993 Coll. On the organization of the Constitutional Court of the Slovak Republic, Proceedings before the Court and the Status of Its Judges - the Constitutional Court is bound by the motion to start the proceeding except for the cases explicitly listed in this law whilst no exceptions from this rule have been provided for the proceeding on constitutional complaint of a natural person);
- b) being in communication with the Executor, prejudice of whom has been examined;
- c) having ordered an oral hearing in the matter in spite of the fact that other explanation of the matter could be objectively expected from this hearing;
- d) having performed probation to prove decisive facts from evaluation of which its evaluation of the Executor’s prejudice against the business company POHOTOVOSTĽ, s.r.o. resulted from;
- e) having its legal opinion sufficiently reasoned in a convincing manner and pointed at the relevant evidential facts;

in the Finding of 13 April 2010, file ref.: III ÚS 322/2010 – 37 at page 7 of the reasoning it stated: *“The fact that the Court Executor was an employee of the participant of the execution proceeding (in the given case of entitled person) is the fact excluding him from the execution performance which he was obliged to notify the court with in accordance with § 30 para 1 of the Execution Code.”*

The sentence quoted above from the Finding of the Constitutional Court of 13 April 2010, file ref.: III ÚS 322/2010 – 37, was adopted by various general courts in the Slovak Republic in their decision-making practice under which execution

proceeding is taken against Court Executor based on the motion of the entitled person - business company POHOTOVOSTĚ, s.r.o. Without giving any concrete reasons in relation to the matter of prejudice they systematically started to exclude the Executor from performance of execution. This led to the precedence that **decision in individual constitutional complaint became illegitimate source of law in the national system**. Thus, the general courts started to act *ex offio* under existence of no objections from side of the participants of the execution proceeding. Based on the valid § 30 of the Execution Code, however, the execution courts in the Slovak Republic may act on objection of prejudice only based on the motion of a participant of the execution proceeding. Acting without any motion is not acceptable. Impact of the Finding of the Constitutional Court was exaggerated by the general courts to such extent that the general courts started to exclude the Executor already in the phase of proceeding when they were deciding on empowerment to perform the execution. Based on the Execution Code, however, the execution shall be started only after the authorisation is given and therefore no Court Executor may be excluded from the execution before it even starts. Impacts of the Finding of the Constitutional Court of 13 April 2010, file ref.: III ÚS 322/2010 – 37 are so significant that it influenced decision-making process of the general court also in cases when the execution based on the motion of the business company POHOTOVOSTĚ, s.r.o. was run duly in accordance with the law without any motives of the participants of the execution proceeding to object the Executor's prejudice. We may quote from a letter by the District Court in Dolný Kubín of 18 August 2011 by which the Court Executor was asked to give his position to *“whether because of the reasons in the Finding of the Constitutional Court of the Slovak Republic of 13 April 2011, file ref.: III. ÚS 322/2010-37 you propose your exclusion from the execution performance”*. The Finding of the Constitutional Court has been applied in more than five hundred cases when the execution for the business company was performed by this Court Executor.

Based on the above fact, it is possible to objectively consider that due to procedure of the Constitutional Court of the Slovak Republic in proceeding registered under file ref.: III ÚS 322/2010 – 37, as well as due to decision of 13 April 2010, file ref.: III ÚS 322/2010 – 37 –, the rule of “equality of arms” and rule of contradictory court proceeding as well as the right to reasoning of court decision occurred in this case at expense of the Executor. The rule of **“equality of arms”** is based on the idea that each party has got the same opportunity to file its motion and none of them should have any benefits in relation to his opponent. The rule of equality presents an idea that both parties are entitled to access the information concerning data and arguments of the opponent's party and they must be given an equal opportunity to raise objections against the opponent's argumentation.¹ The basic idea of this rule of equality is connected to the fact that Courts must set up a huge effort to assure the effective way of applicability as guaranteed by Article 6 of the Convention. In this particular case, the Constitutional Court based its reasoning on the motion filed by the natural person V.K. who was not known to the Executor and who he was never in contact with until the motion was filed and without any hearing of the Court Executor who may be considered to be a Party *de facto* it

¹ The Court's judgement in the case *Feldbrugge v. Holland* (1986).

decided on his exclusion from performance of execution of the debts of company POHOTOVOSTĚ, s.r.o. The Executor did not have any opportunity to react to any of V.K.'s claims nor to claims of the District Court in Žiar nad Hronom that was identified as a violator of his rights. The Executor was not given any opportunity to influence preparation of the content of Constitutional Court's decision, even though the given decision has influenced his legal status in a significant manner. Moreover, the procedure chosen by the Constitutional Court gave V.K. sufficient opportunity to enforce his motion with no fear of the Executor's reaction. The Executor in position of Court Executor forcedly recovered the claim of the entitled person against V.K. Therefore, it may be supposed that V.K.'s attitude against the Executor was of aversion and feelings of antipathy and hate. In such position it was more than required to hear the Executor in order to reach objective judgment of the case and to allow him to present his opinion on the case.

The conception of a fair trial includes also the right to contradictory proceeding, where the parties are entitled to submit not only evidence supporting their claim, but also to be notified with full submitted evidence or the standpoints and to express their point of view with an aim to change the judgement of the Court.²

The Executor was not informed that the Constitutional Court has open a proceeding in which it is to decide on his rights and legal position, he was not informed on the content of the evidence, he was not given any opportunity to express his position to the evidence submitted and moreover he was not given any chance to submit any evidence to support his position. Based on the constant case law of the Strasbourg Court, the national court may not base its decision on facts the Party of the proceeding was not familiar with. The contradictory proceeding, however, is not limited only to the right to express the standpoint related to the opponent's claim, but it also refers to the equal authorization for the evidence, acquired by the court on self-initiating, and the fact, if this evidence was familiar to the one Party or to none of them, is not essential. This principle is not limited to the type of the proceeding and it is guaranteed within the criminal process as well as the civil-law process and the proceeding before the Constitutional Court.³

It is necessary to state that the Constitutional Court did not test at all the objective nor subjective aspects of the Executor's prejudice in relation to the business company POHOTOVOSTĚ, s.r.o., and it decided on the Executor's prejudice in a general manner without any appraisal of the concrete facts and evidences.

The right to a fair trial generally requires reasoning of the Court's judgement. Reasoning of the judgement represents the Party's right for correlation by submitting the proposals and arguments, with the purpose to receive the answers. It also represents guarantee of the fact that performance of justice is not arbitral and it presents the presumption of applying for the right on correction procedures. Article 6 of the Convention obliges the Courts to present the reasons of their decisions. Obligation of general courts to reason their decision has been stressed also by the Constitutional Court itself in its constant case law.

² E.g. judgements *Nideröst-Huber v. Switzerland* of 18th February 1997, Para. 24 and *Mantovanelli v. France* of 18th March 1997, Para 33.

³ *Krčmár and others v. Czech republic*, judgement of 03.03.2000, application No. 35376/97.

The Constitutional Court of the Slovak Republic inter alia stated: *“The independence in decision-making of the general courts has been realised in constitutional and lawful procedural and substantive framework. The procedural framework is comprised mainly of the principles of due and fair trial; one of these principles, representing a part of the right to fair trial and excluding arbitrary behaviour at the decision-making, is an obligation of the court to reason their decisions (§ 157 para 1 of the Code of Civil Procedure) in the manner as anchored in § 157 para 2 f the Code of Civil Procedure. The relationship between the conclusion of facts and considerations concerning the assessment of evidence on one side and findings of law on the other side must result from the reasoning. The right to a fair trial may be violated by a situation when assessment of facts is lacking a particular part of facts that appeared in the proceeding but the court did not duly evaluate them in the total complex of the facts examined.”* (Finding of the Constitutional Court of the Slovak Republic, file ref.: III. ÚS 36/2010).

It is not clear from the Finding of the Constitutional Court of 13 April 2010, file ref.: III ÚS 322/2010 – 37, what was the consideration due to which the Constitutional Court had come expressly and with no doubts to the opinion that the fact that the Executor was an employee of the participant of the execution proceeding (in the given case of the entitled person) presents such a circumstance that it makes him excluded from the execution performance. The reasoning of the opinion on the Executor’s prejudice in the execution proceeding does not reveal any relation between the matters of fact and considerations concerning the assessment of evidence on one side and legal conclusions on the other side.

The Constitutional Court should not be incoherent in its argumentation contained in the reasoning, i.e. its decision must be consistent and its arguments must support the particular conclusion. At the same time, it must see to its overall cogency, in other words, to make the premises chosen in the decision as well as the conclusions it reached upon these premises acceptable and rational for wider legal public (as well as the wide public), and last but not least, also fair and convincing. In case the legal conclusions are in extreme disharmony with realised factual findings or the legal conclusions do not result from the findings in any possible interpretation of the court decision, such decision must be considered to be in contradiction with Article 6 para 1 of the Convention (mutatis mutandis the Finding of the Constitutional Court of the Slovak Republic file ref. I. ÚS 243/07 of 19 June 2008).

It should be underlined that considering the circumstances of the given case the Constitutional Court did not meet its duty to reason its decision as obliged by Article 6 of the Convention. Non-fulfilment of such duty established effects so significant that the Executor’s legal position was permanently changed with no remedy possible in the future due to the Constitutional Court’s opinion which comprised only one sentence of the reasoning quot.: *“The fact that the Court Executor was an employee of the participant of the execution proceeding is the fact excluding him from the execution performance in accordance with § 30 para 1 of the Execution Code which he was obliged to notify the court without any unreasonable delay based on § 30 para 3 of the Execution Code.”* Although this opinion was not reasoned, it was consequently taken into decision-making of general courts. The

Court did not correctly follow the wording of the Execution Code by not considering objectively the fact related to the prejudice.

Therefore, it is required to reflect on whether such proceeding taken before the Constitutional Court under file ref.: III ÚS 322/2010 – 37 was fair as a whole, and whether it is possible to speak about fair implementation of jurisdiction.

The considerations are more legitimate due to the fact that various general courts, evidently being of the same opinion, decided to ignore the analysed Finding of the Constitutional Court and refused to exclude the Court Executor from the execution performance. As an example we use quotation from the Ruling of the District Court in Nové Zámky of 16 December 2010, file ref.: 9 Er 1292/2007: *“The fact that the Executor was the entitled person’s employee the court does not consider to be a fact upon which one may have doubts on his impartiality when, in accordance with § 38 paras. 1 and 2 of the Execution Code, an execution may be performed only upon the entitled person’s proposal or upon a proposal of that who will prove that the right from decision has passed to him. The entitled person may file the motion to perform the execution in compliance with this law if the obliged person (debtor) voluntarily does not fulfil what is entailed to him by the valid decision. Selection of an Executor is the entitled person’s disposal right and it is upon his decision which Executor will be sent motions to perform the execution while such Executor follows, while performing the execution, in accordance with valid legal enactments.”*

In relation to the above quotation from the general court’s decision there may come a question whether the Constitutional Court’s activity does not prove to be in breach of rule of law, namely rule of proportionality and rule of legal certainty. If stabilized decision-making practise of the courts is established, other courts must respect such practice to keep the legal certainty. It should be valid though that the same matters are decided the same, in principle. If any deviation from stable decision-making practice occurs, the court, decision of which comprises such concerned deviation, must consistently and sufficiently reason its decision. In case of the contested decision of the Constitutional Court such reasoning is absent.

CONCLUSION

This finding was one of the first, on which the Constitutional Court still rely, when deciding constitutional complaints in areas of consumers protection in the Slovakia. It became relevant especially today, when the National Council of the Slovak republic, inspired by the reasoning of the finding, in connection to the time before parliamentary elections had adopted in very short time amendment to the Code of Civil Procedure, Executory Code, Bill of exchange and cheques. All of them miss the justification of the decision in relation to fundamental legal principles implementation and lead in practice to confusion between the law and political understanding of the topic, which is very sensitive especially in relation to consumers.