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Home > Chief Justice of the Supreme Court: all branches of state power need to help protect fundamental rights

Chief Justice of the Supreme Court: all branches of state power need to help protect fundamental rights

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During a presentation to the parliament today, Priit Pikamäe, the Chief Justice of the Supreme Court, focused on the possibility of increasing the effectiveness of the system for the protection of fundamental rights. One of his proposals was that the parliamentary minority should have the right to have direct recourse in the Supreme Court.

The Chief Justice of the Supreme Court stated that the statistics on the constitutional review cases show clearly that the share of the abstract norm control has decreased. For instance, during the last ten years, the President of the Republic and the Chancellor of Justice filed constitutionality-related actions with the Supreme Court 2 times and 17 times, respectively. The applications from the municipal councils were reviewed by the Supreme Court in 18 cases. However, at the initiative of the courts, the Supreme Court has settled a total of 193 constitutional review cases. Therefore, the constitutional review cases that are initiated by the courts clearly dominate in our constitutional review proceedings.

"For this reason, the whole of the Supreme Court's constitutional review case-law reflects the issues that the court system considers to be problematic, and focus mainly on the Fundamental Rights, Freedoms and Duties chapter of the Constitution. We can safely conclude that a very large number of the constitutionality-related actions initiated by the courts concern issues that arise from the laws regulating the court proceedings," said Pikamäe.

Consequently, Pikamäe highlighted the fact that in the decisions of the Supreme Court, the issues surrounding the right of recourse to the courts and the right of appeal have been thoroughly examined, and thanks to the active work of the municipal councils, the right to self-organisation by local governments has been developed fairly well in the case-law. However, the share of the case-law regarding other parts of the Constitution is very small, which means that the contents of these provisions have not yet been discussed.

"I am of the opinion that the parliament should consider widening the circle of people that has the competence to initiate abstract norm controls. In our legal order, there is no so-called institution of a group appeal, i.e. the right of the parliamentary minority to have recourse to the Supreme Court within the framework of a constitutional review. The legalisation of this option might inter alia considerably reduce the protests of the opposition; for example, in the form of night-time sessions."

In summary, Priit Pikamäe suggests that, in the context of a single court case, the duty to protect fundamental rights lies with the court system; however, the other branches of state power also have their specific roles to play in this system.

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