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17-02-2016

Headnotes:

Legal entities and individuals engaged in entrepreneurial activities may restore a missed limitation period for valid reasons. Provisions preventing them from doing so run counter to the principle of equality before the law and judicial protection.

Summary:

I. A representative of the «Farmaciya Jsc.», Mrs Kochkorbaeva N.B., filed a petition with the Constitutional Chamber, asking it to declare Article 215.2 of the Civil Code unconstitutional. This norm prevents legal entities and citizens engaged in entrepreneurial activities from restoring the limitation period under any circumstances. Once this period has expired (three years in total), the court has to refuse to accept any case seeking redress for violated rights; there is no possibility of verifying the validity of the reasons for having missed the deadline. The applicant contended that this norm deprived these subjects of the possibility of judicial protection, which is guaranteed by the Constitution and not open to restriction by the legislator.

II. The Constitutional Chamber noted that there are situations in legal practice where a party cannot embark on the judicial protection of his or her rights because the limitation period has expired, although he or she might not realise (or have a proper opportunity to realise) that his or her rights have been breached. This is because, under the Civil Law, a certain category of persons (in particular legal entities and those engaged in entrepreneurial activities), have no opportunity to restore the limitation period. This is a legal restriction, preventing the realisation of the right to judicial protection.

The Chamber also noted that the different approach of the legislator to different groups of subjects of civil relations as provided in the Article 215.2 of the Civil Code, some of whom do not have the right to restore a limitation period, runs counter to the constitutional principle of equality of all before the law and the court, and cannot offer all citizens equal protection.