



The Constitutional Court initiates a case with regard to a legal norm, which defines the moment, as of which a person is entitled to compensation in case the use of property is restricted

On 4 November 2011 the 1st Panel of the Constitutional Court initiated the case “On Compliance of Para 4 of Section 6(2) of Law “On the Rights of Land Owners to Compensation for Restrictions upon Commercial Activities in Specially Protected Nature Territories and Micro-reserves” with the first sentence of Article 91 and Article 105 of the Satversme of the Republic of Latvia”.

The Contested Norm

Para 4 of Section 6(2) of law “On the Rights of Land Owners to Compensation for Restrictions upon Commercial Activities in Specially Protected Nature Territories and Micro-reserves” provides:

“Compensation for restrictions upon forestry activities shall be granted pursuant to the provision referred to in Section 5(1) of this Law, after: [...] on the basis of a legal transaction, the title to land has been corroborated in the Land Register”.

The Facts

The Department of Administrative Cases of the Supreme Court Senate of the Republic of Latvia is hearing a case, in the framework of which a person requests compensation, because a micro-reserve has been established in her property for a specially protected species – the black stork. On the basis of the contested norm, the first instance court and the regional court have rejected the person’s claim, since at the moment, when restrictions were placed upon the immovable property, the person had become the owner of the property, where the micro-reserve was established, on the basis of a legal transaction; however, she had not corroborated her rights in the Land Register.

The applicant – the Supreme Court Senate – holds that the legal regulation that the contested norm comprises, which excludes from the circle of persons who receive compensation those persons, who have acquired land through a legal transaction before

the restrictions upon commercial activities were imposed, but corroborated their rights into the Land Register after that, does not have and cannot have a legitimate aim.

The applicant holds that in order to reach the aim of the law, the state, for the purpose of establishing the right to compensation, should not pay attention to the date of corroborating rights into the Land Register, but rather the time, when the person acquired the right to the land for a certain price, i.e., when the legal transaction was concluded.

In view of the above, the Senate requests the Constitutional Court to examine compliance of the contested norm with the first sentence of Article 91¹ and Article 105² of the Satversme.

Legal Proceedings

The Saeima has been requested to submit a written reply on the facts of the case and legal substantiation by 14 January 2012.

The term for preparing the case is 14 February 2012.

The judgements, decisions and other information regarding the Constitutional Court are available at the home page of the Constitutional Court www.satv.tiesa.gov.lv.

Constitutional Court

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¹ Article 91 of the Satversme: "All human beings in Latvia shall be equal before the law and the courts. "

² Article 105 of the Satversme: "Everyone has the right to own property. Property shall not be used contrary to the interests of the public. Property rights may be restricted only in accordance with law. Expropriation of property for public purposes shall be allowed only in exceptional cases on the basis of a specific law and in return for fair compensation."