



A case initiated with regard to a norm that revokes the possibility to inherit early retirement pension capital of farmers

On 16 February 2016 the 1st Panel of the Constitutional Court initiated the case “On Compliance of the Cabinet of Ministers Regulation of 14 April 2015 No.187 “Amendment to the Cabinet of Ministers Regulation of 30 November 2004 No.1002 “Procedure for Implementing the Programming Document “Latvia’s Rural Development Plan for the Implementation of Rural Development Programme for 2004-2006” with Article 105 of the Satversme of the Republic of Latvia”.

The Contested Norm

The contested norm deletes the words “If the recipient of the support passes away in the period, when the concluded agreement on receipt of early retirement pensions is effective, his monthly pension for the remaining period shall be disbursed to the person, whose inheritance rights have been recognised pursuant to the national legal acts” in sub-para ”a” in Section “Early Retirement” of Subchapter 12.3.2 of the programming document “Latvia’s Rural Development Plan for the Implementation of Rural Development Programme for 2004-2006”.

The Norm of Higher Legal Force

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. “

The Facts

The Regulation of the Council of the European Union No. 1257/99 establishes support measures for rural development. *Inter alia*, it envisages the possibility for elderly farmers to cease agricultural activities and retire early. It is indicated in the

programming document “Latvia’s Rural Development Plan for the Implementation of Rural Development Programme for 2004-2006” that this measure creates the possibility for elderly farm owners, who due to different reasons are unable to continue and develop commercial activity, to transfer the farm (give, sell, gift) to another person, receiving early retirement support. The Cabinet of Ministers Regulation of 30 November 2004 No.1002 “Procedure for Implementing the Programming Document “Latvia’s Rural Development Plan for the Implementation of Rural Development Programme for 2004-2006” envisaged that the pension granted to a farmer during the remaining period was paid to his heirs. In 2015 the Cabinet of Ministers amended this Regulation, deleting the norm, which envisaged the possibility to inherit the pension.

The application to the Constitutional Court was submitted by the Administrative District Court, which is hearing a case regarding discontinuation of disbursement of the inherited early retirement pension. Heiresses of a farmer, who had been granted such pension, have turned to the Administrative District Court. The agreement on early retirement envisaged that the pension would be paid to the farmer or his heirs until 2021; however, the disbursement thereof was discontinued in 2015 – after the contested norm was adopted.

Allegedly, the contested norm had been adopted because usually farms are taken over from the retiring farmer by his relatives, i.e., prospective heirs. Thus, relatives receive both the farm and the possibility to inherit the pension. However, in the particular case that is heard by the Administrative District Court, the farm had been transferred to another person. The Applicant notes that the contested norm had been adopted, without comprehensive assessment of the actual situation, i.e., without taking into considerations cases, when a farm is transferred to persons, who are not the heirs of the particular farmer. It is contended that the contested norm restricts persons’ right to own property without a legitimate aim; moreover, the proportionality of the public benefit and the restriction upon the fundamental rights of private persons had not been evaluated.

Legal Proceedings

The Constitutional Court has invited the Cabinet of Ministers to submit to the Constitutional Court a written reply on the facts of the case and the legal substantiation by 16 April 2016.

The term for preparing the case is 16 July 2016. The Court shall decide on the type of procedure and the date for hearing the case after the case has been prepared.

The press release was prepared with the aim to facilitate understanding of the actual facts of the case. It shall not be regarded as part of the judgement and is not binding to the Constitutional Court. 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.

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