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**A case has been initiated with regard to the right to get acquainted with case materials in criminal proceedings regarding criminally acquired property**

On 21 July 2016 the 2<sup>nd</sup> Panel of the Constitutional Court initiated case “On Compliance of the Fifth Part of Section 629 of the Criminal Procedure Law with the first sentence of Article 92 of the Satversme of the Republic of Latvia”.

**The Contested Norm**

The fifth part of Section 629 of the Criminal Procedure Law provides: “The case materials in proceedings regarding criminally acquired property shall be an investigative secret, and a person directing the proceedings, a public prosecutor and a court examining the case may get acquainted with the case. The persons referred to in Section 628 of this Law [a suspect or accused and the person by whom property has been seized or an arrest has been imposed on property, or a person who has the right to concrete property] may get acquainted with the case materials with a permission of the person directing the proceedings and in the amount specified thereby.”

**The Norm of Higher Legal Force**

The first sentence of Article 92 of the Satversme: “Everyone has the right to defend his or her rights and lawful interests in a fair court.”

**The Facts**

The case was initiated on the basis of constitutional complaint submitted by limited liability company “Cell Finance” stating that proceedings regarding criminally acquired property had been initiated with regard to the applicant. In the framework of these proceedings the applicant’s representative had submitted a request for getting acquainted with the case materials in the proceedings regarding criminally acquired property, but, on the basis of the contested norm, this request had been rejected.

The applicant holds that the contested norm places disproportional restrictions upon its right to a fair trial, since it does not ensure compliance with the principle of procedural equality. The right to get acquainted with the case materials is said to be one of the most important procedural measures. This decision is adopted by the person directing the proceedings, who cannot be regarded as being a neutral and impartial person in the proceedings regarding criminally acquired property; moreover, the contested norm does not define criteria that the person directing the proceedings should follow when deciding on permission to get acquainted with the case materials.

### **Legal Proceedings**

The Constitutional Court has requested the Saeima to submit to the Constitutional Court a written reply, presenting the facts of the case and legal substantiation, by 21 September 2016.

The term for preparing the case is 21 December 2016. The Court shall decide on the type of procedure and the date for hearing the case after the case has been prepared.

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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](http://www.satv.tiesa.gov.lv).

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