



**The law on expropriation of part of immovable property “Kaktiņi” for public needs
complies with the Satversme**

On 9 December 2016 the Constitutional Court passed a judgement in Case No. 2016-08-01 “On Compliance of Law “On Expropriation of Part of Immovable Property “Kaktiņi” in Lēdmane Parish, Lielvārde County for Public Needs to Implement Reconstruction Project of State Road E22 in the Section Rīga (Tīnūži) – Koknese with Article 105 of the Satversme of the Republic of Latvia”.

Contested Norm

The contested law provides that part of immovable property “Kaktiņi” (0.96 ha) is to be expropriated for public needs, to implement the reconstruction project of the state road E22 in the section Rīga (Tīnūži) – Koknese.

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

Part of the immovable property “Kaktiņi”, belonging to Ilze Spila, applicant in the case, has been expropriated for public needs. The applicant notes that she had agreed to voluntary expropriation of property and had no objections as to the amount of fair compensation that had been established. However, throughout the process of expropriation of immovable property she had clearly expressed her wish to receive compensation in the form of immovable property of equal value and not a monetary compensation. However, allegedly, the Ministry of Transport did not properly examine her proposal with regard to the form of compensation. Therefore the contested law had been adopted without taking into consideration the exceptional nature of forced expropriation of immovable property and is said to be incompatible with Article 105 of the Satversme.

The Court's Findings and Rulings:

The fourth sentence in Article 105 of the Satversme comprises a number of criteria that the State must abide by to ensure legality of forced expropriation of property. To assess, whether the fourth sentence in Article 105 of the Satversme has been complied with, the Constitutional Court must verify, whether the forced expropriation of property occurred:

- 1) on the basis of a specific law;
- 2) for public need;
- 3) in an exceptional case;
- 4) for fair compensation. [13]

The Constitutional Court found that in the particular case the condition included in the fourth sentence of Article 105 of the Satversme that that forced expropriation was allowed only on the basis of “a specific law” had been met. I.e., on 24 September 2015 the Saeima adopted a specific law on forced expropriation of part of immoveable property belonging to the Applicant for public need. [1]

At the same time the Constitutional Court noted that the obligation of the legislator to ensure the person's right to be heard prior to adoption of legal act followed from the requirement with respect to a specific law included in the fourth sentence of Article 105 of the Satversme. In the particular case the Applicant's proposal as regards the form of compensation had been duly examined and reasons had been provided as to why this proposal could not be satisfied. Hence, the Constitutional Court concluded that expropriation of property had occurred on the basis of a specific law. [14.2]

The Constitutional Court found that forced expropriation of a part of immoveable property “Kaktiņi” complied with public need. I.e., forced expropriation of immoveable property served for the development of transport infrastructure. [15]

The Constitutional Court recognised that in examining, whether the requirement that property may be expropriated only in exceptional cases had been met, it also had to

establish, whether the immovable property had been expropriated for fair compensation.
[16]

The Constitutional Court found that by expropriating the applicant's immovable property, the aim to reconstruct state road E22 in the section Rīga (Tīnūži) – Koknese could be achieved. [16.1] Prior to adopting the contested law the legislator verified, whether it was necessary to expropriate a part of immovable property belonging to the applicant for ensuring public needs. [16.2]

Finally, the Constitutional Court found that, in abiding by the provision of Article 105 of the Satversme on forced expropriation of immovable property for public need, fair compensation had been set for the Applicant, and she had no objections with respect to the amount thereof. The Constitutional Court noted that neither the Applicant's subjective right to a fair compensation in a form she preferred, nor the State's obligation to ensure this form of compensation followed from Article 105 of the Satversme. [16.3, 16.4, 16.5]

Therefore the Constitutional Court **recognised that the contested norm complied with Article 105 of the Satversme.**

The judgement by the Constitutional Court is final and not subject to appeal, it will enter into force on the day of its official publication. The text of the judgement [in Latvian] is available on the home page of the Constitutional Court: www.satv.tiesa.gov.lv/wp-content/uploads/2016/05/2016-08-01_Spriedums.pdf.

The press release was prepared with the aim to facilitate understanding of the cases examined by the Constitutional Court. It shall not be regarded as part of the ruling 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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