



A case initiated with respect to the right to get acquainted with case materials in proceedings regarding criminally acquired property and the right to appeal a decision by the regional court in the framework of these proceeding

On 10 April 2017, the Constitutional Court initiated case “On Compliance of Section 629 (5) of Criminal Procedure Law with the First Sentence of Article 92 of the *Satversme* of the Republic of Latvia and on Compliance of the Second Sentence of Section 631 (3) of Criminal Procedure Law with the First Sentence of Article 91 of the *Satversme*.”

Contested Norms

Section 629(5) of Criminal Procedure Law: “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 may get acquainted with the case materials with a permission of the person directing the proceedings and in the amount specified thereby.” Section 631(3) of the Criminal Procedure Law: “In examining a complaint or protest, a court may repeal a decision of a district (city) court and take a decision referred to in Section 630 of this Law. A decision shall not be subject to appeal.”

Norms of Higher Legal Force

The first sentence of Article 91 of the *Satversme*: “All human beings in Latvia shall be equal before the law and the courts.”

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. “

Facts of the Case

The case was initiated with respect to application by IMEX PROVIDER LTD, which states that in May 2014 criminal proceedings had been initiated against the applicant. Whereas in October 2016 the official in charge of the proceedings had adopted a decision on isolating materials of the criminal case in separate records and initiating proceedings regarding criminally acquired property and transferring the criminal case to court for adjudication.

At the court hearing, when the case regarding criminally acquired property was heard, the applicant's representative submitted a request for getting acquainted with the case materials. On the basis of the contested norm this request was rejected and in March 2017 a final decision that was not subject to appeal was adopted with respect to the applicant.

The applicant holds that its fundamental rights to a fair trial, enshrined in the *Satversme*, is restricted in the procedure regarding criminally acquired property, since the court cannot re-examine the refusal by the official in charge of proceedings regarding getting acquainted with case materials.

The applicant also notes that the equality principle is not complied with. I.e., if within criminal proceedings separate records on criminally acquired proceedings are isolated, the decision by the district court can be appealed only at the appellate instance. Thus, the applicant has been deprived of the right to submit a complaint about possible violations of substantial and procedural law provisions committed by a court.

Legal Proceedings

The applicant in its application requested to suspend enforcement of the court's decision in the criminal case. The Constitutional Court satisfied this request by the applicant and decided to suspend the enforcement of the court's decision until the ruling by the Constitutional Court entered into force.

The Constitutional Court has requested the *Saeima* to submit by 10 June 2017 to the Constitutional Court a written reply, presenting the facts of the case and legal substantiation.

The term for preparing the case is 10 September 2017. 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 cases heard by the Constitutional Court. It shall not be regarded as part of a 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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