



A case initiated with respect to regulation on noise in the vicinity of motor racing tracks

On 9 May 2017, the 3rd Panel of the Constitutional Court initiated case “On compliance of Para 2 of Annex 2 to Cabinet Regulation of 7 January 2014 No. 16 “Procedure for Noise Assessment and Management” with Para 7 of Section 2 and Section 18¹ (3) of law “On Pollution” and Article 111 and Article 115 of the *Satversme* of the Republic of Latvia, as well as of Sub-para 2.4 of this Regulation, insofar it applies to public auto and motor sports events, which are held at open auto or motor racing track located in a populated place (town or village) and for the organisation of which a permit for organising public events has been issued in accordance with the procedure established by Law on Safety of Public Entertainment and Festivity Events, with Para 7 of Section 2 of the law “On pollution” and Article 111 and Article 115 of the *Satversme* of the Republic of Latvia”.

Contested Norms

Para 2 of Annex 2 to the Cabinet Regulation of 7 January 2014 No. 16 “Procedure for Noise Assessment and Management” (hereinafter – Regulation Ni. 16) defines the threshold values of environmental noise of open-air motor racing tracks located within the territory, where individual residential houses (mansions, low-rise houses, and farmsteads), and high-rise residential houses are built. The admissible range of noise in different situations is from 65 dB (A) to 75 dB (A). The contested norm also provides that the noise caused by an open-air auto and motor racing track is assessed by using only the threshold values of environmental noise, without assessing noise indicators inside premises.

Sub-para 2.4 of Regulation No.16 provides, that these rules do not apply to public events, which have been approved by the local government in accordance with Law on Safety of Public Entertainment and Festivity Events, i.e., a permit has been obtained for holding these events.

Norms of Higher Legal Force

Article 111 of the *Satversme*: “The State shall protect human health and guarantee a basic level of medical assistance for everyone.”

Article 115 of the Satversme: “The State shall protect the right of everyone to live in a benevolent environment by providing information about environmental conditions and by promoting the preservation and improvement of the environment.”

Para 7 of Section 2 of law “On Pollution” provides that the purpose of this Law is to prevent or reduce harm caused to human health, property or the environment due to pollution, to eliminate the consequences of harm caused, as well as to prevent or reduce the effects of environment noise upon human beings.”

Section 18¹ (3) of the law “On Pollution”:

“The Cabinet shall determine:

- 1) the noise indicators, the procedures for the application thereof and assessment methods;
- 2) the requirements and time periods for the noise mapping, as well as the development of strategic noise maps and action plans for noise reduction;
- 3) the assessment methods for the harmful consequences of environmental noise;
- 4) the procedures by which co-operation with neighbouring states in the assessment and reduction of environmental noise shall be implemented (if a transboundary impact has been observed);
- 5) the information to be issued to the public and the European Commission regarding environmental noise, the procedures for the issuing thereof and time periods, as well as the procedures by which the public shall be involved in the development of action plans for the reduction of noise.”

The Facts

The case has been initiated with regard to an application submitted by the Ombudsman of the Republic of Latvia. The applicant, in the framework of his inspection case, has identified deficiencies in the regulation on environmental noise. The applicant has repeatedly turned to the Cabinet and recommended introducing amendments to Regulation No. 16 within a set term to eliminate the identified deficiencies; however, the Cabinet has not eliminated these deficiencies.

The applicant holds that the Cabinet has not made a due assessment of noise-limiting measures and has not implemented such. The admissible threshold values set in Regulation No. 16 are said to reach the level that might cause harmful consequences for human health

and jeopardize a person's right to live in benevolent environment, thus infringing upon fundamental rights enshrined in the *Satversme*.

Likewise, the applicant notes that Cabinet in Regulation No. 16 has failed to comply with the guidelines of the World Health Organisation that define the levels of environmental noise. The current regulation cannot be recognised as being such that would prevent or decrease the impact of environmental noise upon people. Allegedly, the Cabinet, by adopting amendments to Regulation No. 16, has violated the authorisation granted by the legislator.

The applicant holds that by Sub-para 2.4 of Regulation No. 16, insofar it applies to public auto and motor sports events, which are held at open auto or motor racing track located in a populated place (town or village) and for the organisation of which a permit for organising public events has been issued, the Cabinet has not introduced due measures to ensure protection of a person's fundamental rights.

Legal Proceedings

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

The term for preparing the case is 9 October 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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