



A case has been initiated with regard to a norm in the binding regulation of the Riga City Council, which sets the procedure for calculating the real estate tax for buildings, which have not been sub-divided into apartment properties

On 29 December 2017, the 1st Panel of the Constitutional Court initiated a case “On Compliance of Sub-para 3.2.1. of the Binding Regulation of the Riga City Council of 9 June 2015 No. 148 “On the Real Estate Tax in Riga” with the first sentence of Article 91 and the first sentence of Article 105 of the *Satversme* of the Republic of Latvia”.

The Contested Norm

Sub-para 3.2.1. of the Binding Regulation of 9 June 2015 of the Riga City Council No. 148 (hereinafter – the Binding Regulation No. 148) “On the Real Estate Tax in Riga” provides: “To natural persons, for the part of a building, in which on 1 January of the taxation year at 0.00 the residence of a citizen or non-citizen of Latvia, a citizen of other Member State of the European Union, of the European Economic Area or the Confederation of Switzerland or of a person, who has received a permanent residence permit in the Republic of Latvia, has been declared, in the procedure established in Para 3^{1 1} of this Regulation, assuming that each person, who has declared his place of residence, is eligible to 30 m² of the part of the building, the purpose of which is residing and which is not used for commercial activities, and the part of premises of common use

¹ Para 3¹ of the Binding Regulation of 9 June 2015 of the Riga City Council No. 148 (hereinafter – the Binding Regulation No. 148) “On the Real Estate Tax in Riga”: “If at the object of real estate the residence of a citizen of other Member State of the European Union, of the European Economic Area or the Confederation of Switzerland or of a person, who has received a permanent residence permit in the Republic of Latvia, has been declared, to apply the real estate tax rates referred to in Para 3 of the Introductory Part of the binding regulation¹, the residence of the aforementioned persons has to be declared in Latvia 7 years prior to 1 January of the relevant taxation year. Once compliance of the person with this criterion has been established, it is not re-examined in the subsequent taxation years and is considered as having been met.” (Available: <https://m.likumi.lv/doc.php?id=275681#p3>. Accessed: 29.12.2017.)

eligible for this part (if the cadastral measurements of the building have been done).² In other cases, a real estate tax rate in the amount of 1.5 % of the cadastral value of the object shall be applied.”

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 105 of the *Satversme*: “Everyone has the right to own property.”

The Facts

The case has been initiated with respect to an application submitted by the Ombudsman of the Republic of Latvia (hereinafter – the Applicant). The Applicant, in the framework of a verification procedure, identified deficiencies in the norm of the Binding Regulation No. 148, which determines the procedure for calculating real estate tax for natural persons for buildings having two or more apartments, which have not been sub-divided into separate apartment properties. The Applicant had requested the Riga City Council to eliminate these deficiencies within a set term. However, the Riga City Council has not eliminated these deficiencies within the set term.

The Applicant holds that Sub-para 3.2.1. of the Binding Regulation of the Riga City Council No. 148 is incompatible with the first sentence of Article 91 and the first sentence of Article 105 of the *Satversme* because it envisages, without grounds, differential treatment of owners of real estate, who own buildings with two or more

² Para 3 of the Binding Regulation of 9 June 2015 by the Riga City Council No. 148 “On the Real Estate Tax in Riga” defines particular categories of real estate objects, to which a reduced rate of real estate tax may be applied. The reduced real estate rates, in accordance with the cadastre value of the property, are as follows:

- 0.2% of the cadastre value if it does not exceed 57 000 euros,
- 0.4% of the cadastre value for the amount that exceeds 57 000 euros, but does not exceed 107 000 euros,
- 0.6% of the cadastre value for the amount exceeding 107 000 euros.

apartments that have not been sub-divided into separate apartment properties and which one person per each owner has declared his official place of residence.

Legal Proceedings

The Constitutional Court has requested the Riga City Council to provide a reply on the facts of the case and legal substantiation by 1 March 2018.

The term for preparing the case is 29 May 2018. The Court shall decide upon the 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 homepage of the Constitutional Court www.satv.tiesa.gov.lv.

Ketija Strazda

Assistant to the President of the Constitutional Court

Ketija.Strazda@satv.tiesa.gov.lv

+ 371 67830737, + 371 26200580