



A case initiated with respect to a norm of the Civil Law that provides that a person, who has been punished for criminal offences related to violence or threatening of violence, may not be an adopter

On 7 January 2019, the 1st Panel of Constitutional Court, at its assignments sitting, initiated the case “On Compliance of Para 1 of Section 163 (4) of the Civil Law with Article 96 and Article 110 of the *Satversme* of the Republic of Latvia”.

The Contested Norm

Para 1 of Section 163 (4) of the Civil Law provides that the adopter may not be a person, who has been punished for criminal offences related to violence of threatening of violence, regardless of extinguishing of the criminal record or removal thereof.

The Norms of Higher Legal Force

Article 96 of the *Satversme* of the Republic of Latvia (hereinafter – the *Satversme*): “Everyone has the right to inviolability of his or her private life, home and correspondence”.

Article 110 of the *Satversme*: “The State shall protect and support marriage – a union between a man and a woman, the family, the rights of parents and rights of the child. The State shall provide special support to disabled children, children left without parental care or who have suffered from violence”.

The Facts

The case was initiated with regard to an application by the Supreme Court. The Applicant is reviewing an administrative case, which has been initiated on the basis of a person’s application regarding the refusal by the Orphans’ Court to recognise him as

the adopter of his spouse's children. The contested norm has been the grounds for the decision by the Orphan's Court.

The Applicant holds that the restriction on fundamental rights included in the contested norm is incompatible with the principle of proportionality since the legitimate aim could be reached by less restrictive measures. Therefore the Applicant has suspended the legal proceedings in the case and has turned to the Constitutional Court.

Legal Proceedings

The Constitutional Court has requested the *Saeima* to provide a reply on the facts of the case and legal substantiation by 7 March 2019.

The term for preparing the case is 7 June 2019. 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 cases heard by the Constitutional Court. 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.

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