



**A case initiated with respect to a norm
that determines the amount of the state fee for the partner of the estate-leaver for
registering the ownership rights in the Land Register**

On 7 July 2020, the 3rd Panel of the Constitutional Court initiated the case “On Compliance of Para 13 of the Cabinet Regulation of 27 October 2009 No. 1250 “Regulation Regarding State Fee for Registering Ownership Rights and Pledge Rights in the Land Register” with Article 91, Article 105 and Article 110 of the *Satversme* of the Republic of Latvia”.

The Contested Norm

Para 13 of the Cabinet Regulation of 27 October 2009 No. 1250 “Regulation Regarding State Fee for Registering Ownership Rights and Pledge Rights in the Land Register” (hereafter – Regulation No. 1250):

“13. State fee for registering ownership rights to an immovable property to heirs, based on a certificate of inheritance issued by a notary, shall be determined as follows, if the value of the inherited immovable property does not exceed 10 minimum salaries:

13.1. in cases regarding confirmation of the right of inheritance:

13.1.1. for the spouse and the first-, second-, and third-class heirs who have been residing with the deceased – 0.25% of the value of the inherited immovable property;

13.1.2. for other first- and second-class heirs – 0.5% of the value of the inherited immovable property;

13.1.3. for other third-class heirs – 1.5% of the value of the inherited immovable property;

13.1.4. for fourth-class heirs – 5% of the value of the inherited immovable property;

13.2. in cases regarding the coming into force of the last will instruction instrument or inheritance contract:

13.2.1. for the spouse and the first-, second-, and third-class heirs – 0.125% of the value of the inherited immovable property;

- 13.2.2. for fourth-class heirs – 4% of the value of the inherited immovable property;
- 13.2.3. for other testamentary or contractual heirs – 7.5% of the value of the inherited immovable property;
- 13.2.4. for testamentary or contractual heirs, if they are organizations that provide public good – 1.5% of the value of the inherited immovable property

The Norms of Higher Legal Force

Article 91 of the *Satversme* of the Republic of Latvia (hereafter – the *Satversme*): “All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind..”

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.”

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 on the basis of the Ombudsman’s application. The applicant, in the framework of an inspection case, has identified shortcomings in Para 13 of the Regulation No. 1250, which sets the amount of the state fee to testamentary or contractual heirs for the corroboration of their right to property. The Ombudsman had requested the Cabinet to eliminate the identified deficiencies within a certain term. However, the Cabinet has failed to eliminate these within the term set.

The Ombudsman holds that the legislator, in adopting the contested norm, has not ensured legal protection to families, consisting of same-sex partners. The amount of the state fee for the testamentary or contractual heirs is significantly higher compared to, for example, a spouse. This rate of the state fee applies both to same-sex partners and partners of different sexes, who have not registered their relationship by concluding a marriage. However, the Ombudsman is of the opinion that same-sex partners, who wish to register their relationship but cannot do so, are not in similar and according to certain criteria comparable circumstances with partners of different sexes, who have the possibility to conclude a marriage. Therefore, the rate of the state fee should be different. It is maintained that, with respect to same-sex partners, the contested norm is incompatible with the principle of prohibition of discrimination, included in Article 91 of the *Satversme*, in interconnection with Article 105 and Article 110 of the *Satversme*.

The Legal Proceedings

The Constitutional Court has requested the Cabinet to submit a written reply on the facts of the case and the legal reasoning **by 7 September 2020**.

The term for preparing the case is **7 December 2020**. The Court will decide on the type of procedure and the date for hearing the case after it 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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