



A case initiated with respect to norms that define the total period of the state support for the production of electricity

On 16 September 2020, the 1st Panel of the Constitutional Court initiated the case “ On Compliance of the Words in Para 3¹ of Section 1(2) “or other operating aid for the production of electricity” and the First and the Second Part of Section 30⁴ and Para 83 of the Transitional Provisions of the Electricity Market Law with Article 1 and the First Sentence of Article 105 of the *Satversme* of the Republic of Latvia.”

The Contested Norms

Para 3¹ of Section 1(2) of the Electricity Market Law provides: “The support period is the period, which is included in the life-cycle of a power station during which the power station receives State support for producing electricity from renewable resources or in co-generation or other operating aid for the production of electricity.”

Section 30⁴(1) of the Electricity Market Law provides: “The total period of support, aggregating all types of support for the production of electricity, shall not exceed 20 years for one power station.”

Section 30⁴(2) of the Electricity Market Law provides: “When the total support period reaches 20 years the disbursement of support shall be discontinued.”

Para 83 of the Transitional Provisions of the Electricity Market Law, in turn, provides: “With respect to electricity producers, who had been granted the right to State support prior to 15 February 2020 for a period that exceeds 15 February 2023 and for whom the support period on the particular date has reached 20 years, the disbursement of this support shall be continued until 15 February 2023.”

The Norm of Higher Legal Force

Article 1 of the *Satversme* of the Republic of Latvia (hereafter – the *Satversme*):
“Latvia is an independent democratic republic.”

The first sentence of Article 105 of the *Satversme*: “Everyone has the right to own property.”

The Facts

The case was initiated on the basis of a constitutional complaint, submitted by limited liability company “KRĪGAĻU DZIRNAVAS” and farm “DZIRNAVAS” of Bērze rural municipality, Dobeles Region. In 2009 and 2007, the applicants were granted the right to receive State support; i.e., they were granted the right to sell in the framework of mandatory procurement electricity that was produced from renewable resources. The applicants hold that, pursuant to the legal norms valid at that time, the State support had been granted to them for the period of 20 years – until 2029 and 2027, respectively.

On 30 January 2020, the *Saeima* adopted the law “Amendments to the Electricity Market Law”, which entered into force on 15 February 2020. This law added, *inter alia*, the contested norms to the Electricity Market Law.

The applicants note that, pursuant to the contested norms, the State support to them will be discontinued already on 15 February 2023 because, taking into account that since 1996 and 1998 they had received another operating aid for the production of electricity, the total period of support will have reached 20 years. Instead of continuing to receive support in the framework of mandatory procurement for several years, the applicants’ right to property would be disproportionately restricted. Allegedly, the contested norms also infringe upon the applicants’ legitimate expectations and their right to receive State support and to sell the produced electricity in the framework of the mandatory procurement system.

The applicants have turned to the Constitutional Court, being of the opinion that the contested norms are incompatible with the right to property, included in the first

sentence of Article 105 of the *Satversme*. The applicants hold that the norms are incompatible also with several general principles of law, included in Article 1 of the *Satversme*, for example, the principle of legitimate expectations, legal certainty, good legislation and sustainable development.

The Legal Proceedings

The Constitutional Court has requested the *Saeima* to submit a written reply on the facts of the case and the legal reasoning by 16 November 2020.

The term for preparing the case is 16 February 2021. The Court will decide on the type of procedure and the date for hearing the case after it has been prepared.

The decision on initiation of the case is available here:

https://www.satv.tiesa.gov.lv/wp-content/uploads/2020/09/2020-53-01_Lemums_par_ierosinasanu.pdf

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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