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**The Constitutional Court refers a question for preliminary ruling to the Court of Justice of the European Union regarding advertising of medicinal products and suspends legal proceedings in the case**

On 6 October 2020, the Constitutional Court decided to refer a question for preliminary ruling to the Court of Justice of the European Union (hereafter – CJEU) in case No. 2020-02-0306 “On Compliance of Sub-para 18.12 of the Cabinet Regulation of 17 May 2011 “Procedures for Advertising Medicinal Products and Procedures by Which a Medicinal Product Manufacturer is Entitled to Give Free Samples of Medicinal Products to Physicians” with Article 100 and Article 105 of the *Satversme* of the Republic of Latvia and the Third Part of Article 288 of the Treaty on the Functioning of the European Union”.

The Constitutional Court found that there were doubts in the case regarding the interpretation of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (hereafter– Directive 2001/83/EC), specifically, whether the provisions of this Directive grants to the Member States the right to expand the enumeration of the prohibited measures for advertising medicinal products and to introduce other restrictions into the national regulation.

The first part of Article 267 of the Treaty on the Functioning of the European Union provides that CJEU has the jurisdiction to give preliminary rulings concerning the interpretation of the Treaties as well as the validity and interpretation of acts of the institutions, bodies, offices and agencies of the Union. Pursuant to the second and third

part of this Article, the Constitutional Court has the right and, in some cases, the obligation to turn to CJEU.

In the present case, the Constitutional Court has identified the need to refer a question for a preliminary ruling to CJEU with respect to interpretation of norms of Directive 2001/83/EC. The Constitutional Court decided to refer the following questions to CJEU:

1. Should the activities, to which the legal regulation, included in the contested norm, apply, be recognised as being advertising of medicinal products, in the meaning of Title VIII “Advertising” of Directive 2001/83/EC?
2. Should Article 90 of Directive 2001/83/EC be interpreted to mean that a Member State’s regulation, pursuant to which the list of prohibited means of advertising is expanded and stricter restrictions, which are not directly included in Article 90 of the Directive, are established, is incompatible with it?
3. Should the legal regulation in the basic case, in the meaning of Para 3 of Article 87 of Directive 2001/83/EC, be recognised as being such that envisages restrictions on advertising medicinal products with the aim to promote their rational use?

The Constitutional Court decided to suspend legal proceedings in the case until the ruling by CJEU entered into force.

The text of the decision is available on the homepage of the Constitutional Court:  
[https://www.satv.tiesa.gov.lv/wp-content/uploads/2020/01/07.10.2020\\_Versanas-EST-lieta\\_2020-02-0306.pdf](https://www.satv.tiesa.gov.lv/wp-content/uploads/2020/01/07.10.2020_Versanas-EST-lieta_2020-02-0306.pdf)

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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](http://www.satv.tiesa.gov.lv).

**Zanda Meinarte**

Public relations specialist of  
the Constitutional Court

[Zanda.Meinarte@satv.tiesa.gov.lv](mailto:Zanda.Meinarte@satv.tiesa.gov.lv)

+ 371 67830759, + 371 26393803