



The Constitutional Court refers a question for preliminary ruling to the Court of Justice of the European Union regarding application of the value added tax in cases of enforced lease and suspends legal proceedings in the case

On 11 November 2020, the Constitutional Court decided to refer a question for preliminary ruling to the Court of Justice of the European Union (hereafter – CJEU) in order to deliver a ruling in the case No. 2020-24-01 “On Compliance of Sub-para “c” of Para 14 of Section 1 of Value Added Tax Law, insofar it Applies to the Leasing of Land in Cases of Enforced Lease, with the First Sentence of Article 91 and the First, Second and Third Sentence of Article 105 of the *Satversme* of the Republic of Latvia”.

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 or structures of the European Union. Pursuant to the second and third part of this Article, the Constitutional Court of the Republic of Latvia also 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 questions for preliminary ruling to CJEU concerning the interpretation of the Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. The Constitutional Court decided to refer the following questions to CJEU:

1. Should the exemption from the value added tax envisaged in Sub-para “l” of Article 135 of the Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax for leasing or letting immovable property be interpreted to mean that this exemption is applied also to land lease in the case of enforced lease?

2. If the answer to the first question is affirmative, i.e., in the case of enforced land lease the lease must be exempt from the value added tax, whether if in all other cases the value added tax is applied to land lease such exemption is not contrary to one of the principles of the Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax – the principle of the neutrality of the value added tax?

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

The text of the decision is available on the Constitutional Court's homepage: https://www.satv.tiesa.gov.lv/wp-content/uploads/2020/05/11.11.2020._Versanas-EST_lieta_2020-24-01.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.

Zanda Meinarte

Public relations specialist
of the Constitutional Court
+ 317 67830759, + 371 26393803