



A case initiated with respect to a norm that establishes the obligation of the owner of immovable property to relocate at their expense road engineering structures or technical equipment for organising traffic

On 26 October 2020, the 4th Panel of the Constitutional Court initiated the case “On Compliance of Section 7¹ (3) of the Road Traffic Law with the First, Second and Third Sentence of the *Satversme* of the Republic of Latvia”.

The Contested Norm

Section 7¹ (3) of the Road Traffic Law provides: “The existing road engineering structures or the technical equipment for organising traffic, upon reasoned request by the owner of the immovable property, shall be relocated at the expense of the owner of the immovable property.”

The Norm of Higher Legal Force

The first, the second and the third sentence of Article 105 of the *Satversme* of the Republic of Latvia (hereafter – the *Satversme*) provide: “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.”

The Facts

The case was initiated on the basis of an application submitted by the Supreme Court. The Supreme Court is adjudicating an administrative case, in which a private person has turned to an administrative court, appealing against the provisions included in a construction permit issued by the Riga City Construction Board. This person owns immovable property and a garage located on it. Next to the garage, guywire or contact-line pole of a trolleybus line is located, the possessor of which is Riga municipal capital company “Rīgas satiksme”. The private person wants to pull down the garage. This construction plan can be implemented if, before that, the provision included in the construction permit is met; the contact-line pole has to be relocated at the expense of the private person.

The Supreme Court holds that the restriction on fundamental rights, included in the contested norm, is unnecessary. I.e., the legitimate aim of the restriction on private person's rights could be reached by measures that are less restrictive upon a private person's rights, for example, by the public person committing itself to cover the costs of relocating road engineering structure if, in the case of pulling down immovable property the use and safety of the specific road engineering construction would be jeopardised. Likewise, the restriction of a private person's rights is said to outweigh the benefit gained by society. I.e., if a private person wishes to pull down a building in its ownership, for example, if this construction has served its time, then this person is forced to make disproportional sacrifice in the interests of society.

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 28 December 2020.

The term for preparing the case is 26 March 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/2020/10/2020-59-01_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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