



Satversmes tiesa

Press Release

Case No 2021-02-01

12 January 2021

A case initiated with respect to the provision that assigns the status of a public lake to Lake Šķirnate

On 12 January 2021, the 2nd Panel of the Constitutional Court initiated the case "On compliance of para 56 of part 1 of Annex I (to Section 1102) 'List of public lakes and rivers' to the Civil Law with Articles 1 and 105 of the Constitution of the Republic of Latvia".

CONTESTED PROVISION

Section 1102 of the Civil Law provides that the littoral zone as well as the lakes and rivers listed in the annex to this section (Annex I) are public waters. All other waters are private. Conversely, the contested provision stipulates that Lake Šķirnate, aka Kimbarcišķu (its Latvian part), situated in Demene parish of Daugavpils Region, with the area of 10 hectares, is a public lake.

PROVISIONS OF SUPERIOR LEGAL FORCE

- Article 1 of the Constitution (Satversme) of the Republic of Latvia (hereinafter – the Constitution):
“Latvia is an independent democratic republic”.
- Article 105 of the Constitution: “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.”

FACTS OF THE CASE

The case was initiated on the basis of an application filed by the Latgale Regional Court (hereinafter – the Applicant). The Applicant is hearing a civil case, in which the Prosecutor’s Office of Daugavpils, in the interests of the State, has brought a claim

against, *inter alia*, several private individuals to terminate the right of ownership of Lake Šķirnate and amend the respective entries in the Land Register. After the restoration of the independence of the Republic of Latvia, these private individuals legally obtained the title to immovable property, which included Lake Šķirnate. Although initially Lake Šķirnate had not been on the List, it was included in it by the law of 14 May 1998 “Amendments to the Civil Law”, which entered into force on 10 June 1998, and thus became public waters, i.e., the State property.

It follows from the application that the contested provision must be applied in the respective civil case. However, this provision is, allegedly, incompatible with the principle of justice as derived from the basic norm of a democratic state governed by the rule of law and falling within the scope of Article 1 of the Constitution, as well as with Article 105 of the Constitution. The Applicant holds that the proper procedure for expropriation of immovable property, which would include hearing and assessing the opinion of Lake Šķirnate’s owners, was not implemented in adopting the contested provision and including Lake Šķirnate in the List. Therefore, no fair balance between the interests of the lake’s owners and the interests of the public was reached.

LEGAL PROCEEDINGS

The Constitutional Court has requested the *Saeima* to submit a written reply stating the facts of the case and the legal reasoning by 12 March 2021.

- The case is to be prepared by 14 June 2021.

The Court will decide on the type of proceedings and the date of hearing once the case has been prepared.

- The decision to initiate the case is available here: https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/01/2021_02_01_Latvijas_republikas_konstitucijas_14.pdf

This release has been prepared to inform the public about the work done by the Constitutional Court. More detailed information on current issues, cases initiated and decided by the Constitutional Court is available on the website of the Constitutional Court at www.satv.tiesa.gov.lv. You are also invited to follow the information on the Court’s *Twitter* account [@Satv_tiesa](https://twitter.com/Satv_tiesa) and *YouTube* [channel](#).

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