



Satversmes tiesa

Press Release

Case No 2021-05-01

27 January 2021

A case initiated with respect of the Civil Law provision that prevents an individual convicted of violent offences to act as guardian

On 26 January 2021, the 1st Panel of the Constitutional Court initiated a case “On compliance of Section 242(5) with Articles 96 and 110 of the Constitution of the Republic of Latvia”.

CONTESTED PROVISION

Pursuant to Section 242(5) of the Civil Law, individuals who have been convicted of criminal offences related to violence or the threatening of violence, regardless of extinguishing of the criminal record or removal thereof, may not act as guardians.

PROVISIONS OF SUPERIOR LEGAL FORCE

- Article 96 of the Constitution (Satversme) of the Republic of Latvia (hereinafter – the Constitution): “Everyone has the right to inviolability of their private life, home and correspondence”.
- Article 110 of the Constitution: “The State shall protect and support marriage — a union between a man and a woman, the family, the rights of parents and rights of the child. The State shall provide special support to disabled children, children left without parental care or who have suffered from violence.

FACTS OF THE CASE

The case has been initiated on the basis of an application filed by the Administrative District Court. The above court is examining an administrative case initiated following an individual’s application requesting to repeal a decision of a family tribunal. It follows from the application that the contested provision has been applied by an institution and that it is also applicable in the specific court proceedings.

According to the Applicant, the contested provision is not compliant with Articles 96 and 110. The contested provision contains an absolute prohibition the legitimate aim of

which, i.e. the protection of public morals and welfare, can be achieved with less restrictive means. Therefore, the contested provision is not consistent with the principle of proportionality.

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 26 March 2021.

The case is to be prepared by **28 June 2021**. The Court will decide on the type of proceedings and the date of hearing once the case has been prepared.

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- The decision to initiate the case is available here: https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/01/2021-05-01_lemums_par_ierosinasanu.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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