



Satversmes tiesa

Press Release

• Case No 2021-06-01

• 10 February 2021

A case initiated with respect to the provisions that set out the procedure for calculating and paying the personal income tax for the performers of economic activity

On 9 February 2021, the 2nd Panel of the Constitutional Court initiated the case "On the compliance of Section 11(3¹) and Section 11¹(6¹) of the law 'On Personal Income Tax' with Article 105 of the Constitution of the Republic of Latvia".

CONTESTED PROVISIONS

Section 11(3¹) of the law "On Personal Income Tax" provides that the applicable amount of expenditure related to economic activities may not exceed 80 per cent of the total revenue from the private individual's economic activity.

In its turn, Section 11¹(6¹) of the same law stipulates the following: if after the corrections provided for in this Section the taxable income of the payer is less than 20 per cent of the revenue from economic activities, the tax is calculated based on the amount which is not less than 20 per cent of the revenue from economic activities.

PROVISION OF SUPERIOR LEGAL FORCE

- Article 105 of the Satversme of the Republic of Latvia (hereinafter – 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 has been initiated on the basis of an application filed by the Ombudsman. The Applicant indicates that, with the coming into effect of the contested provisions on 1 January 2018, the procedure for determining the income and, consequently, also for

calculating and paying the personal income tax, was changed. Previously, if the expenditure of the performers of economic activity was equal to the revenue received or exceeded the revenue received, the personal income tax was not payable. Conversely, after the contested provisions came into force, in such situations the performers of economic activity have an obligation to pay the personal income tax, with the relevant rate being applied to 20 per cent of the revenue (rather than to the profit). Thus, as a result of the contested provisions, the individuals have to pay the personal income tax even when there is no profit. Therefore, allegedly, the contested provisions place a disproportionate restriction on the fundamental rights, as enshrined in Article 105 of the Constitution, of the performers of economic activity.

COURT PROCEDURE

The Constitutional Court has requested the *Saeima* to submit a written reply stating the facts of the case and the legal reasoning by 9 April 2021.

- The case is to be prepared by 9 July 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/2021/02/2021-06-01_lemums_par_ierosinasanu-1.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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