



Satversmes tiesa

Press Release

Case No 2021-08-03

8 March 2021

Yet another case initiated with respect to the provisions
determining the recalculated amount to be paid by the user of
energy in case of violation of the regulations on the use of natural
gas

On 5 March 2021, the 2nd Panel of the Constitutional Court initiated the case “On compliance of sub-paragraph 88.2 and paragraph 89 of the Cabinet of Ministers Regulation No 78 of 7 February 2017 ‘Regulations regarding the trade and use of natural gas’ (in the wording that was in force until 24 January 2020) with Article 64 and the first and the third sentence of Article 105 of the Constitution of the Republic of Latvia and with Section 107(7) of the Energy Law”.

CONTESTED PROVISIONS

Sub-paragraph 88.2 of the Cabinet of Ministers Regulation No 78 of 7 February 2017 ‘Regulations regarding the trade and use of natural gas’ in the wording that was in force until 24 March 2020 (hereinafter – Regulations No 78):

“In consequence of the violation referred to in para 87 of these regulations, the system operator recalculates the amount of natural gas consumed as follows: [...] for a household consumer – taking into account the differentiated consumption rates of natural gas for household needs and heating in residential and household buildings determined in accordance with the payment procedures approved by the system operator, or taking into account the maximum possible load of the user’s natural gas installations and appliances if the user uses natural gas in a gasified object for purposes not included in the differentiated consumption rates for household needs and heating in residential and household buildings.”

Paragraph 89 of Regulations No 78:

“If the violation referred to in para 87 of these regulations has been committed, the distribution system operator recalculates the amount of natural gas consumed and the fee for the distribution system services at a double rate in accordance with para 88 of

these regulations, by deducting the amount of natural gas recorded with a commercial meter for the period in which the recorded amount of natural gas consumed was underrated and setting the price of natural gas in the amount of that for the supply of last resort in the month when the violation was found. Based on the recalculated natural gas consumption, the system operator issues an invoice to the user, showing the recalculated natural gas consumption and the payment date. The user is obligated to settle accounts with the distribution system operator timely and in full.”

PROVISIONS OF SUPERIOR LEGAL FORCE

- Article 64 of the Constitution (Satversme) of the Republic of Latvia (hereinafter – the Constitution): “The Saeima, and also the people, have the right to legislate, in accordance with the procedures and to the extent provided for by this Constitution.”
- The first and the third sentence of Article 105 of the Constitution: “Everyone has the right to own property. [...] Property rights may be restricted only in accordance with law.”
- Section 107(7) of the Energy Law: “Procedures for supplying natural gas to the users and for terminating its supply, requirements for the safe use of the natural gas system, the rights and responsibilities of the trader, public trader, system operator, user, and the owner of a gasified object in supplying and using natural gas, the procedure for settling accounts for the services received, the amount of late charge, the procedures for changing traders and for supplies to users in case of natural gas supply interruptions, as well as the procedure for providing the liquefied natural gas services shall be determined by the Cabinet of Ministers.”

FACTS OF THE CASE

The case has been initiated on the basis of applications filed by Riga District Court and Zemgale Regional Court. The Applicants are hearing civil cases, in which debt claims were brought against private individuals – household users of natural gas. It follows from the applications that the contested provisions are to be applied in the cases under consideration by the Applicants.

The Applicants hold that the contested provisions of Regulations No 78 had been issued in violation of the authorisation granted to the Cabinet by Section 107(7) of the Energy Law. Furthermore, the obligation to pay for the natural gas in accordance with the calculation performed by the energy supply merchant infringes on the property rights of the respondents in the cases under consideration by the Applicants. Allegedly, the legitimate aims of this restriction of fundamental rights can be achieved by more proportionate means.

COURT PROCEDURE

The Constitutional Court has requested the Cabinet of Ministers to submit a written reply stating the facts of the case and the legal reasoning by 5 May 2021.

- The case is to be prepared by 5 August 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/2021/03/2021-08-03_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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