



Satversmes tiesa

Press Release

• Case No 2021-10-03

• 24 March 2021

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A case initiated with regard to the requirement to have a Covid-19 test taken prior to entering Latvia

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On 24 March 2021, the 1st Panel of the Constitutional Court initiated the case “On the compliance of Paragraph 35<sup>3</sup> of the Cabinet of Ministers Regulation No 360 of 9 June 2020 ‘Epidemiological safety measures to contain the spread of Covid-19 infection’ with the second sentence of Article 98 of the Constitution of the Republic of Latvia”.

CONTESTED PROVISION

- Paragraph 35<sup>3</sup> of the Cabinet Regulation No 360 of 9 June 2020 “Epidemiological safety measures to contain the spread of Covid-19 infection”:

“An individual may travel to the Republic of Latvia in compliance with the following requirements:

35.<sup>3</sup> 1. if, 72 hours prior to boarding the vehicle of a carrier or prior to entering the Republic of Latvia by a vehicle not performing carriage for reward, the individual has been tested for COVID-19 (molecular-based test for infection using polymerase chain reaction (PCR)) and the test is negative. The test results shall be presented to the carrier prior to boarding the vehicle or, upon request, to the State Border Guard, State Police or Tax and Customs Police of the State Revenue Service in English, French, German, or Russian. If the test results are presented to the carrier prior to boarding the vehicle, they may also be in the official language of the state from which the individual is travelling to the Republic of Latvia. If the test results are presented to the State Border Guard, State Police or Tax and Customs Police of the State Revenue Service when entering the Republic of Latvia from the Republic of Estonia and the Republic of Lithuania, the test results may also be presented in Lithuanian or Estonian;

35.<sup>3</sup> 2. if the individual presents another medical document confirming that s/he is not infectious;

35.<sup>3</sup> 3. when entering by a vehicle not performing carriage for reward, the individual shall confirm the existence of the document referred to in Sub-paragraph 35.<sup>3</sup>1 or 35.<sup>3</sup>2 of

this Regulation by filling in electronically the confirmation form on the website of the information system (covidpass.lv) and, if necessary, present the document referred to in Sub-paragraph 35.<sup>3</sup>1 or 35.<sup>3</sup>2 of this Regulation to the State Border Guard or the State Police;

35.<sup>3</sup> 4. if the individual uses the vehicle of a carrier, s/he shall present the document referred to in Sub-paragraph 35.<sup>3</sup>1 or 35.<sup>3</sup>2 of this Regulation to the carrier. The international carrier shall visually ascertain that the person has submitted the document referred to in Sub-paragraph 35.<sup>3</sup>1 or 35.<sup>3</sup>2 of this Regulation. If the above-mentioned document cannot be presented, the carrier refuses boarding the vehicle to the individual.

#### PROVISION OF SUPERIOR LEGAL FORCE

- Second sentence of Article 98 of the Constitution (*Satversme*) of the Republic of Latvia (hereinafter – the Constitution): "Everyone having a Latvian passport shall be protected by the State when abroad and has the right to freely return to Latvia."

#### FACTS OF THE CASE

The case has been initiated on the basis of an application filed by Aleksandra Jolkina. The Applicant is a citizen of the Republic of Latvia who has been permanently residing in the Federal Republic of Germany for several years. The Applicant visits Latvia regularly and was planning to visit it again in the second half of January or in February 2021. However, the contested provision restricts the Applicant's right to freely enter Latvia.

The Applicant holds that the contested provision is incompatible with the second sentence of Article 98 of the Constitution. Allegedly, the contested provision is not clear and precise, and the application of it cannot be foreseen by individuals. It is also alleged that the requirement to have a Covid-19 test taken 72 hours prior to boarding the carrier's vehicle or to entering the Republic of Latvia disproportionately restricts the Applicant's right to freely return to Latvia.

#### 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 24 May 2021.

- The case is to be prepared by 24 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/2021/03/2021-10-03\\_lemums\\_par\\_ierosinasanu.pdf](https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/03/2021-10-03_lemums_par_ierosinasanu.pdf) ...

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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](http://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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