



Satversmes tiesa

Press Release

Case No 2021-34-01

17 August 2021

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A case initiated with regard to the legal regulation which provided for criminal liability for calls to destroy independence of the Republic of Latvia as a state

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On 16 August 2021, the 3rd Panel of the Constitutional Court initiated the case “On the compliance of Section 82(1) of the Criminal Law in the wording which was in force from 1 April 2013 until 10 May 2016 with the first sentence of Article 100 of the Constitution of the Republic of Latvia, and on the compliance of the transitional provision of the law of 21 April 2016 ‘Amendments to the Criminal Law’ with Article 1 and the second sentence of Article 92 of the Constitution of the Republic of Latvia”.

#### CONTESTED PROVISIONS

Section 82(1) of the Criminal Law in the wording which was in force from 1 April 2013 until 10 May 2016 (hereinafter – the contested provision of the Criminal Law) provided that public calls to destroy independence of the Republic of Latvia as a state, aimed at incorporating Latvia into a single state formation with another country or destroying it in another way, are punishable with deprivation of liberty for a term of up to three years, or a short-term deprivation of liberty, or community service, or a fine, with or without a probationary supervision period of up to three years.

The transitional provision of the law of 21 April 2016 “Amendments to the Criminal Law” stipulates that the provisions of the law of 21 April 2016 “Amendments to the Criminal Law” do not apply to individuals who committed a criminal offence before the date of coming into force of this law.

#### 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.”

**Second sentence of Article 92 of the Constitution:** “Everyone shall be presumed innocent until their guilt has been established in accordance with law.”

**First sentence of Article 100 of the Constitution:** “Everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express one’s views.”

#### FACTS OF THE CASE

The case has been initiated on the basis of an application filed by a private individual. On 29 February 2016, the Applicant posted an appeal on a website, calling to collect signatures for the Republic of Latvia to become part of the United States of America. By a court decision, the Applicant was recognised as being guilty of committing an offence provided for in the contested provision of the Criminal Law. This provision allegedly infringes on the Applicant’s right to freedom of expression, as enshrined in the first sentence of Article 100 of the Constitution.

By the law of 21 April 2016 “Amendments to the Criminal Law”, the contested provision of the Criminal Law was removed from the Criminal Law, however, the contested transitional provision stipulates that the respective amendments do not apply to the individuals who committed an offence before the date of coming into effect of the amendments. It is alleged that the contested transitional provision, which has been applied to the Applicant, interferes with the Applicant’s fundamental rights as enshrined in the second sentence of Article 92 of the Constitution and violates the criminal law principle of the retroactive effect of a provision favourable to the individual, which is derived from the principle of a rule-of-law state and falls within the scope of Article 1 of the Constitution.

#### COURT PROCEDURE

The Constitutional Court has requested the body which adopted the contested provisions – the *Saeima* – to submit a written reply stating the facts of the case and the legal reasoning by **18 October 2021**.

The case is to be prepared by **17 January 2022**.

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/2021/08/2021-34-01\\_lemums\\_par\\_ierosinasanu.pdf](https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/08/2021-34-01_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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