



Satversmes tiesa

Press release

• Case No 2021-43-01 •

09.12.2021

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A case initiated with respect to norms preventing persons who are serving a custodial sentence from participating in local government elections

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On 8 December 2021, the 4<sup>th</sup> Panel of the Constitutional Court initiated the case “On Compliance of Para 2 of Section 6 of the Law on the Election of Local Government Councils with the First Sentence of Article 101(2) of the Constitution of the Republic of Latvia”.

#### THE CONTESTED PROVISION

Para 2 of Section 6 of the Law on the Election of Local Government Councils determines that in the Republic of Latvia, persons who are serving a sentence in places of deprivation of liberty have no right to elect the council.

#### PROVISIONS WITH A HIGHER LEGAL FORCE

The first sentence of Article 101(2) of the Constitution of the Republic of Latvia (hereinafter – the Constitution) is the following: “Local governments shall be elected by Latvian citizens and citizens of the European Union who permanently reside in Latvia.”

#### THE FACTS OF THE CASE

The Applicant is serving a custodial sentence. In accordance with the contested provision, he was not entitled to vote in the local government elections held in Latvia on 5 June 2021.

The Applicant believes that the prohibition established by the contested provision restricts the right of a person to participate in the election of local government by voting as set forth in the first sentence of Article 101(2) of the Constitution.

The legislator has failed to observe the principle of good law-making, as it has not taken into account the findings of the Constitutional Court and the case-law of the European Court of Human Rights on the right to vote of prisoners and has failed to reassess the necessity of the limitation on the fundamental right contained in the contested provision.

The Applicant maintains that the limitation on fundamental rights contained in the contested provision has no legitimate purpose. If the facilitation of the work of public administration institutions could be considered as its legitimate purpose, then the limitation on fundamental rights would be recognised as disproportionate, as the same purpose can be achieved by means less limiting on the rights of a person. Moreover, such a limitation on a fundamental right does not provide any benefit to society. As the contested provision deprives any person serving a custodial sentence of the right to participate in local government elections, this limitation on fundamental rights would be recognised as disproportionate even if it did provide some benefit to society.

#### LEGAL PROCEEDINGS

The Constitutional Court has requested the institution, which issued the contested act, i.e., the *Saeima*, to submit to the Constitutional Court its written reply presenting the facts of the case and legal reasoning by **8 February 2022**.

- The term for preparing the case is **8 May 2022**.

The Court shall decide on the procedure and date for hearing the case after the case is prepared.

- The decision on initiation of the case is available here: [https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/12/2021-43-01\\_lemums\\_par\\_ierosinasanu.pdf](https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/12/2021-43-01_lemums_par_ierosinasanu.pdf)

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This press release has been prepared to inform the society on the work of the Constitutional Court. More detailed information on the latest developments, cases opened and examined by the Constitutional Court is available on the website of the Constitutional Court [www.satv.tiesa.gov.lv](http://www.satv.tiesa.gov.lv). We invite you to follow the information also on the Court's *Twitter* account [@Satv\\_tiesa](https://twitter.com/Satv_tiesa) and the Court's *YouTube* [channel](#).

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A video [on the Constitutional Court](#).

