



Satversmes tiesa

Press release

• Case No 2021-44-01

• 30.12.2021

A case initiated with respect to the procedure for appealing a court decision regarding confiscation of criminally acquired property

On 29 December 2021, the 3rd Panel of the Constitutional Court initiated the case “On compliance of the second sentence of Section 631(3) of the Criminal Procedure Law with the first sentence of Article 92 of the Constitution of the Republic of Latvia”.

THE CONTESTED PROVISION

According to the second sentence of Section 631(3) of the Criminal Procedure Law, the decision of a regional court regarding a complaint or protest submitted against a court decision in respect of criminally acquired property is not subject to appeal.

PROVISION WITH A HIGHER LEGAL FORCE

The first sentence of Article 92 of the Constitution of the Republic of Latvia (hereinafter – the Constitution): “Everyone has the right to defend his or her rights and lawful interests in a fair court.”

THE FACTS OF THE CASE

The property of the Applicant has been seized by decision of the investigator. Subsequently, the investigator decided to initiate proceedings regarding criminally acquired property in respect of the said property and to transfer the materials regarding criminally acquired property to the court for adjudication.

By the decision of the Economic Affairs Court, the property of the Applicant was declared not to be criminally acquired property, and the proceedings regarding criminally acquired property were terminated. The prosecutor submitted a protest against this decision, and

by the decision of the Riga Regional Court, the property of the Applicant was declared to be criminally acquired property and confiscated for the benefit of the State.

The Applicant holds that the actions of the Regional Court in adopting the above decision was contrary to the Criminal Procedure Law, therefore the decision is not fair, however, the contested provision prevents him from appealing it. Namely, he is deprived of the possibility to ascertain the lawfulness of the decision of the Riga Regional Court, therefore, the right of the Applicant to a fair court enshrined in the first sentence of Article 92 of the Constitution is infringed.

The State should ensure the possibility to appeal against the above decision of the Regional Court, as this results in confiscation of the property of a person and thereby the right of a person to property is significantly restricted. Furthermore, the requirement to ensure the possibility to appeal this decision also arises from Article 8(6) of Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union.

JUDICIAL PROCEDURE

The Constitutional Court has requested the institution which issued the contested act, i.e., the Parliament, to submit to the Constitutional Court its written reply presenting the facts of the case and legal reasoning by **1 March 2022**.

- The term for preparing the case is **29 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/web/viewer.html?file=https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/12/2021-44-01_Lemums_par_ierosinasanu.pdf#search=

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. 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](#).

Zanda Meinarte

The Constitutional Court's
Public Relations Specialist

Zanda.Meinarte@satv.tiesa.gov.lv

67830759, 26393803

A video on the Constitutional Court.

