Satversmes tiesa

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A case has been initiated against the order of the Minister for Environmental Protection and Regional Development suspending the effect of binding regulations of the Ķekava Municipality Council on the operation of gambling

On 28 March 2022 the 4th Panel of the Constitutional Court initiated a case "Regarding Compliance of the Order No. 1-2/11040 of 21 December 2021 of the Minister for Environmental Protection and Regional Development "Regarding Suspension of the Effect of Binding Regulations No. 22/2021 of the Ķekava Municipality Council dated 8 September 2021 “Regarding the Operation of Gambling at Ķekava Municipality” with Section 41, Paragraph Two, Clause 11, and Section 42, Paragraph Ten of the Law on Gambling and Lotteries, as well as with Section 49, Paragraph One of the Law On Local Governments".

The contested act

Order No. 1-2/11040 of 21 December 2021 “Regarding Suspension of the Effect of Binding Regulations No. 22/2021 of the Ķekava Municipality Council dated 8 September 2021 “Regarding the Operation of Gambling at Ķekava Municipality”” (hereinafter referred to as – the contested act), issued by the Minister for Environmental Protection and Regional Development (hereinafter referred to as – the Minister).

Provision with a higher legal force

Section 41, Paragraph Two, Clause 11 of the Law on Gambling and Lotteries stipulates that the operation of gambling shall not be permitted at places or in territories of the municipality in question, which are defined in the binding regulations of the local government.

Section 42, Paragraph Ten of the Law on Gambling and Lotteries: "The municipality has the right to issue binding regulations designating places and areas where operation of gambling is not allowed."

Section 49, Paragraph One of the Law On Local Governments: "The operation of an unlawful binding regulation or other laws and regulations or specific paragraphs of such issued by a council, except for the operation of decisions taken in accordance with the procedures of Section 47 of this Law, may be suspended by a substantiated order of the Minister for Environmental Protection and Regional Development. The order shall indicate the paragraphs of the specific binding regulations or other law or regulation that are to be revoked as unlawful, or shall indicate that the binding regulations or other law or regulation are to be revoked in their entirety. The order shall be published in the official gazette Latvijas Vēstnesis within three days from its issue and shall be sent to the chairperson of the relevant council who shall be responsible for its implementation."

The facts of the case

The case was initiated based on the application of Ķekava Municipality Council. The contested act suspends effect of the binding regulations No. 22/2021 of 8 September 2021 "Regarding the Operation of Gambling at Ķekava Municipality" (hereinafter referred to as – the Regulations), which establish the procedure for operation of gambling in the administrative territory of Ķekava Municipality.

According to Paragraph 2 of the Regulations, it is prohibited to organise gambling in the administrative territory of Ķekava Municipality. According to Paragraph 3 of the Regulations, this prohibition does not apply to the cases where a gambling operation licence has been issued or other regulatory enactments authorise the operation of gambling prior to the entry of the Regulations into effect.

In the contested act, the Minister states that the Regulations do not comply with the regulatory enactments of higher legal force, as the local authority has not been granted the right to impose a ban on the operation of gambling throughout its territory. Ķekava Municipality Council, in its turn, disagree with such an opinion of the Minister and requests to assess the compliance of the contested act with Section 41, Paragraph Two, Clause 11 and Section 42, Paragraph Ten of the Law on Gambling and Lotteries, as well as Section 49, paragraph One of the Law on Local Governments.

Judicial proceedings

The Constitutional Court has requested the official who has issued the contested act, i.e., the Minister for Environmental Protection and Regional Development, to submit to

the Constitutional Court a written explanatory response containing outline of the actual circumstances of the case and legal basis 30 May 2022.

- The term of preparation of the case is 29 August 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/2022/03/2022-13-05_lemums_par_ierosinasanu.pdf

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 adjudicated 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 the Court's *YouTube* channel.

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A video on the Constitutional Court.

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