



Satversmes tiesa

Press release

• Case No 2022-17-01 •

26.05.2022

A case has been initiated on the norms providing for reforms of the management of the ports of Riga and Ventspils

On 24 May 2022, the 2nd Panel of the Constitutional Court initiated a case "On Compliance of Section 4, Paragraph Three, Clause 1, Section 4, Paragraph Nine, Section 7, Paragraph 1¹ of the Law on Ports, as well as Paragraph 16, Sub-paragraphs 1 and 2 of the Transitional Provisions with Article 1 and the first sentence of Article 101, Paragraph Two of the Satversme of the Republic of Latvia".

THE CONTESTED NORMS

According to Section 4, Paragraph Three, Clause 1 of the Law On Ports, the state and municipal land and acquatorium are in possession of the relevant port authority. Section 4, Paragraph Nine of this Law provides for that the state and the local government shall be entitled to expropriate the immovable property owned thereby and located in the port territory with the state transferring it to the local government and with the local government transferring it to the state without consideration.

Whereas, Section 7, Paragraph 1¹ of the Law On Ports provides for that the Port Authority in the Port of Riga and the Port of Ventspils are capital companies, the capital shares (stocks) of which belong to the state and may also belong to the respective local government. The state owns not less than three-fifths of the capital shares (stocks) in that capital company. This capital company implements port management functions in the Port of Riga and the Port of Ventspils and is under the supervision of the Ministry of Transport with regard to the implementation of port management functions, tasks and duties set out in the Law On Ports, the Freeport of Riga Law and the Freeport of Ventspils Law. Capital shares (stocks) in a capital company are not to be pledged, and they are to be disposed of only mutually between the holders of the capital shares (stocks).

Section 16, Sub-clauses 1 and 2 of the Transitional Provisions of the Law On Ports stipulates as follows: “In order to ensure the continuity of the operation of the ports of Riga and Ventspils:

1) The Cabinet and the Riga local government shall, until 1 September 2022, take the decision on the founding of a capital company for the management of Riga port in accordance with the procedures laid down in the State Administration Structure Law and in the Law on Governance of Capital Shares of a Public Person and Capital Companies. In reaching an agreement on the establishment of a joint capital company - of the State and the local government -, the State shall invest the property and the assets owned by the Free Port Authority of Rīga in the equity capital, but the Rīga local government - the property and assets owned by it in the territory of the port that up until now were transferred into possession of the Free Port Authority of Rīga provided that the State owns not more than 60 per cent and the Rīga local government - not more than 40 per cent of the capital shares (stocks). The shareholders shall enter into the shareholders' agreement in order to determine and specify the rights and obligations of the shareholders and to define the responsibility in relation to the joint management of a capital company;

2) The State shall, until 1 September 2022, invest the property and assets owned by the Free Port Authority of Ventspils in the equity capital of the Joint-Stock Company "Ventas osta" in accordance with the procedures laid down in the Law on Governance of Capital Shares of a Public Person and Capital Companies and if an agreement is reached with the Ventspils local government on its participation in the capital company, the Ventspils local government shall invest the property and assets owned by it in the territory of the port provided that the State owns not less than 60 per cent and the Ventspils local government - not more than 40 per cent of the capital shares (stocks). The shareholders of the capital shares (stocks) shall enter into the shareholders' agreement in order to determine and specify the rights and obligations of the shareholders and to define the responsibility in relation to the joint management of a capital company."

NORM WITH A HIGHER LEGAL FORCE

Article 1 of the Constitution of the Republic of Latvia (hereinafter referred to as — the Satversme): 1 “Latvia is an independent democratic republic.”

First sentence of Article 101, Paragraph Two of the Satversme: “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 case was initiated based on the application submitted by twenty-two Members of the 13th Saeima. The contested norms entered into effect on 27 April 2022 and provide for the regulation in respect of the real estate owned by local governments and located in the port area, as well as reform of the ports of Riga and Ventspils. The purpose of adopting the contested norms was to apply the OECD principles of management of state capital companies to the operation of large ports, to increase the state's influence in decision-making and to reform the management model of large ports by transforming them into state capital companies. According to the Applicants, the contested norms allegedly disproportionately interfere with the property rights of the local government and, consequently, contradict the principle of proportionality and the principle of local self-government, which stems from Article 1 and the first sentence of Article 101, Paragraph Two of the Satversme. The Applicants are of the opinion that the contested norms allegedly have such negative consequences for the interests of the municipality and its residents that they cannot be recognised as proportionate. By adopting the contested norms, the Saeima has also allegedly violated the principle of good legislation, since, during the discussion and adoption of the contested norms, there have allegedly been no timely, fair and genuine consultations with local governments, as well as the contested norms are not properly supported by explanatory studies.

JUDICIAL PROCEEDINGS

The Constitutional Court has requested the authority which has issued the contested act, i.e., the Saeima, to submit to the Constitutional Court a written reply presenting the actual circumstances of the case and legal grounds by **25 July 2022**.

- The term for preparing the case is **24 October 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/2022/05/2022-17-01_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 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](#).

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