



Satversmes tiesa

Press release

• Case No. 2022-37-01

• 11.10.2022

Another case initiated regarding the provisions governing the proof of criminally acquired property

On 10 October 2022, the 3rd Panel of the Constitutional Court initiated the case “On Compliance of Section 124, Paragraph Six of the Criminal Procedure Law with the First and Second Sentence of Article 92 of the *Satversme*”.

THE CONTESTED PROVISIONS

Section 124, Paragraph six of the Criminal Procedure Law provides: “In criminal proceedings and in proceedings regarding criminally acquired property, the conditions included in an object of evidence in relation to the criminal origin of the property shall be considered proven if there are grounds to recognise during the course of proving that a property is, most likely, of criminal rather than lawful origin.”

PROVISIONS WITH A HIGHER LEGAL FORCE

The first and second sentence of Article 92 of the Constitution of the Republic of Latvia (hereinafter – the *Satversme*): “Everyone has the right to defend his or her rights and lawful interests in a fair court. Everyone shall be presumed innocent until his or her guilt has been established in accordance with law.”

THE FACTS OF THE CASE

The case was initiated on the basis of an application submitted by Zhanna Shalman (hereinafter – the Applicant).

By a decision of court, the Applicant's undivided shares of immovable property and funds in bank accounts were declared to have been criminally acquired and confiscated for the benefit of the State.

According to the Applicant, the contested provision implies a reduced standard of proof with regard to the relation between a property and a criminal offence, which is unacceptable in proceedings regarding criminally acquired property, as this violates fundamental principles of criminal procedure, for example, the principle that the circumstances which are the subject of proof shall be deemed proven if any reasonable doubts as to the existence or non-existence thereof are excluded during the course of proving. Moreover, the contested provision allows for the fact that in proceedings regarding criminally acquired property, the person related to the property is not granted equal rights with the person directing the proceedings. The contested provision also leads to the fact that the Applicant is in fact punished with confiscation of property for a crime not committed. Thus, the contested provision is said to infringe the right of the Applicant enshrined in the first and second sentences of Article 92 of the *Satversme*.

JUDICIAL PROCEDURE

- The term for preparing the case is **10 March 2023**.

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 (in Latvian) is available here: https://www.satv.tiesa.gov.lv/wp-content/uploads/2022/10/2022-37-01_lemums_par_ierosinasanu.pdf

This press release has been prepared to inform the society on the work of the Constitutional Court. Further details on the latest developments, cases opened and examined by the Constitutional Court are available on the website of the Constitutional Court www.satv.tiesa.gov.lv. **We invite you to follow the Court's activities on our Twitter account [@Satv_tiesa](https://twitter.com/Satv_tiesa) and our YouTube [channel](#).**

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