



Satversmes tiesa

Press release

Case No. 2022-38-01

21.10.2022

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Another case initiated on the right to familiarise with the materials of a criminal case in proceedings regarding criminally acquired property

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On 20 October 2022, the 3<sup>rd</sup> Panel of the Constitutional Court initiated the case “On Compliance of the Second Sentence of Section 627, Paragraphs four and five of the Criminal Procedure Law with the First Sentence of Article 92 of the *Satversme*”.

THE CONTESTED PROVISIONS

According to Section 627, Paragraph four of the Criminal Procedure Law, the case materials in proceedings regarding criminally acquired property constitute an investigative secret, and the person directing the proceedings, a prosecutor and a court examining the case may get acquainted with the case. **The persons referred to in Section 628 of this Law** may familiarise themselves with the materials of the case with the permission of, and to the extent determined by, the person directing the proceedings

Section 627, Paragraph five of the Criminal Procedure Law provides: “The decision of the person directing the proceedings on rejecting a request to become acquainted with the case materials may be appealed to the district (city) court which examines proceedings regarding criminally acquired property he court shall take the decision to fully or partially satisfy the complaint, or to dismiss it. The decision shall not be subject to appeal. For the court to decide whether becoming acquainted with the case materials endangers the fundamental rights of other persons, the public interests or interferes with the achievement of the objective of criminal proceedings, the court may request the materials of the criminal case and become acquainted with them.”

PROVISION WITH A HIGHER LEGAL FORCE

The first 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.”

#### THE FACTS OF THE CASE

The case was initiated on the basis of three applications submitted by several traders (hereinafter – the Applicants). The property of the Applicants has been seized within the framework of criminal proceedings. Later decisions were taken in respect of the said property to initiate proceedings regarding criminally acquired property and to transfer the materials regarding criminally acquired property to the court for adjudication.

The Applicants have requested access to familiarise themselves with the entire case file. Their requests were satisfied partially – they were allowed to familiarise themselves with the materials of the criminal proceedings to a certain extent. The Applicants have appealed against these decisions in court. The decisions of the Economic Affairs Court satisfied the Applicants' complaints in part – they were allowed additional access to certain materials of the proceedings regarding criminally acquired property.

According to the Applicants, the contested provisions may deny access to a number of essential case materials in the proceedings regarding criminally acquired property, thus limiting the opportunities of the person related to the property to disprove the presumption of the person directing the proceedings on the criminal origin of the property. Thus, the Applicants' right to a fair trial, enshrined in the first sentence of Article 92 of the *Satversme*, has been infringed.

## JUDICIAL PROCEDURE

- The term for preparing the case is **20 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/2022/10/2022-38-01\\_lemums\\_par\\_ierosinasanu.pdf](https://www.satv.tiesa.gov.lv/wp-content/uploads/2022/10/2022-38-01_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. 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](http://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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