



Satversmes tiesa

Press release

Case No 2022-39-01

10.11.2022.

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Another case initiated on the rules governing proof of property  
obtained by crime

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On the 9 November 2022 the 3rd Panel of the Constitutional Court initiated a case "On Compliance of Article 124, part six, Article 125, part three and Article 126, part 3.1 of the Criminal Procedure Law with the First and Second Sentences of Article 92 of the Constitution".

#### THE CONTESTED RULES

Article 124, part six of the Criminal Procedure Law provides: "In criminal proceedings and proceedings for the proceeds of crime, the circumstances relevant to the criminal origin of property shall be presumed to be proved if, in the course of the proof, it is reasonable to conclude that the property is more likely than not to have had a criminal origin than a lawful origin."

According to Article 125, part three of the Criminal Procedure Law, "it shall be deemed proven that the property laundered has been criminally acquired if the person involved in the criminal proceedings is unable to reliably explain the lawful origin of the property in question and if the totality of the evidence gives the person directing the proceedings grounds to believe that the property is likely to have criminal origin."

Article 126, part 3.1 of the Criminal Procedure Law provides: "If a person involved in criminal proceedings claims that property should not be regarded as criminally acquired, the burden of proving the lawfulness of the origin of the property lies with that person. If a person fails to provide reliable information on the lawfulness of the origin of the property within the time limit set, that person shall be denied the

possibility of obtaining compensation for the damage caused to him by the restrictions imposed on him in the criminal proceedings."

#### RULE OF A HIGHER LEGAL FORCE

The first and second sentences 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. Everyone shall be presumed innocent until his or her guilt has been established in accordance with law."

#### THE FACTS OF THE CASE

The case originates from an application lodged by *LIREVA INVESTMENTS LIMITED* ('the Applicant'), a company established in Cyprus. The investigator, with the consent of the supervising prosecutor, initiated and referred to the court the proceeding for illegally obtained property. By the court decision, the Applicant's financial resources were declared to have been criminally acquired and confiscated for the benefit of the State.

According to the Applicant, the Contested rules do not ensure the right to a fair trial in accordance with the first sentence of Article 92 of the Constitution. Namely, the Contested rules contain a presumption of criminal origin of property, whereas the Applicant has been imposed a disproportionate obligation to rebut this presumption. This would be contrary to the nature and purpose of the presumption of innocence. Thus, the Contested rules infringed the right of the Applicant included in the first and second sentences of Article 92 of the Constitution.

#### JUDICIAL PROCEEDINGS

The term of preparation of the case is **10 April 2023**.

The Court shall decide on the procedure and date for hearing the case after the case is prepared.

The decision to initiate the case is available here: [https://www.satv.tiesa.gov.lv/wp-content/uploads/2022/11/2022-39-01\\_lemums\\_par\\_ierosinasanu.pdf](https://www.satv.tiesa.gov.lv/wp-content/uploads/2022/11/2022-39-01_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. 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](http://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