



Satversmes tiesa

Press release

Case No 2022-40-01

11.11.2022.

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Another case has been initiated regarding procedure of appealing against Court's decision on confiscation of property obtained from crime

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On 10 November 2022 the 2nd Panel of the Constitutional Court initiated a case “On Compliance of Article 631, part three of the Criminal Procedure Law with the First Sentence of Article 92 of the Constitution of the Republic of Latvia”.

#### THE CONTESTED RULES

Article 631, part three of the Criminal Procedure Law: "When considering a complaint or protest, the Court may annul the decision of the district (city) court and adopt the decision referred to in Article 630 of this Law. The decision shall not be a subject to appeal."

#### RULE OF A HIGHER LEGAL FORCE

The First sentence of Article 92 of the Constitution of the Republic of Latvia (hereinafter referred to as – the Constitution): “Everyone has the right to defend his or her rights and lawful interests in a fair court.”

#### THE FACTS OF THE CASE

The case originates from an application lodged by Fortress Finance Inc., a company registered abroad (hereinafter - 'the Applicant'). The property of the Applicant has been seized by decision of the investigator. Later, the investigator made a decision to initiate proceedings on the illegally obtained property and to transfer the materials on the proceeds of crime to the court for decision. The Economic Court

of Justice dismisses the proceedings for illegally obtained property. The Riga Regional Court annulled the decision of the court of first instance on 30 May 2022, declaring the seized property - funds - to be criminally acquired and ordering its confiscation in favour of the State. According to the Contested rules, the decision of the Regional Court is not subject to appeal.

According to the Applicant, the Contested rules, in cases when the decision on recognition of property as criminally acquired and its confiscation in favour of the State was initially adopted by a court of appeal, does not ensure substantive review of the legality of a decision unfavourable to a person. The legislator, by adopting the Contested rule, failed to take into account Article 8, Clauses 1, 6 and 8 of Directive 2014/42/EU. Therefore, the Contested rule, in so far as it precludes the applicant from appealing against the aforementioned decision of the Court of Appeal, infringes the right to a fair trial contained in the first sentence 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/2022/11/2022-40-01\\_lemums\\_par\\_ierosinasanu.pdf](https://www.satv.tiesa.gov.lv/wp-content/uploads/2022/11/2022-40-01_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](#) and the Court's [YouTube channel](#).

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