



Satversmes tiesa

Press release

Case No 2022-44-01

08.12.2022

A case has been initiated concerning the right to use a restricted radio frequency band

On 07 December 2022, the 3rd Panel of the Constitutional Court initiated the case “On Compliance of Section 48, Paragraph seven of the Electronic Communications Law with the First Sentence of Article 91 and Article 105 of the *Satversme*.”.

THE CONTESTED PROVISION

Section 48, Paragraph seven of the Electronic Communications Law (hereinafter – the contested provision) provides: “An electronic communications undertaking shall be entitled to transfer or lease only such rights of use of a restricted radio frequency band which it has acquired as a result of a tender or auction for a fee.”

PROVISIONS WITH A HIGHER LEGAL FORCE

The first sentence of Article 91 of the Constitution of the Republic of Latvia (hereinafter – the *Satversme*): “All human beings in Latvia shall be equal before the law and the courts.”

Article 105 of the *Satversme* is the following: “Everyone has the right to own property. Property shall not be used contrary to the interests of the public. Property rights may be restricted only in accordance with law. Expropriation of property for public purposes shall be allowed only in exceptional cases on the basis of a specific law and in return for fair compensation.”

THE FACTS OF THE CASE

The case has been initiated on the basis of an application submitted by the Limited Liability Company “UNISTARS” (hereinafter – the Applicant).

The Applicant is an electronic communications undertaking which has acquired the right to use the limited radio frequency band. The Applicant wishes to transfer or lease these rights of use to a mobile operator to maximise the financial benefit from its rights of use. However, the contested provision prevents this, because the Applicant has not acquired this right of use as a result of a tender or auction for a fee.

According to the Applicant, the contested provision restricts the possibility of exercising its property rights. Thus, the rights of the Applicant enshrined in the first sentence of Article 91 and Article 105 of the *Satversme* are infringed.

JUDICIAL PROCEDURE

The term for preparing the case is **8 May 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/2022/12/2022-44-01_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 and 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](#) and our *YouTube* [channel](#).

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