JUDGEMENT
on Behalf of the Republic of Latvia
in Riga on 16 April 2025
in Case No. 2021-44-01

The Constitutional Court, composed of: Presiding Judge Irēna Kucina, Judges Anita Rodiņa, Jānis Neimanis, Jautrīte Briede, Veronika Krūmiņa, Mārtiņš Mits, and Juris Juriss,

having regard to the constitutional complaints, submitted by foreign-registered economic operators *1Dream OU*, *Produktech Engineering AG*, *Polaris Consulting Ltd*, *Fortress Finance Inc.*, as well as Artem Zuev, Bakhodir Boltabayevich Parpiyev, and Youssef Fayez Youssef Abdelsayed,

on the basis of Article 85 of the Constitution of the Republic of Latvia and Article 16 (1), Article 17 (1) (11), as well as Article 19^2 and Article 28^1 of the Constitutional Court Law, at the court hearing on 18 March 2025, heard in written procedure the case

"On the compliance of Article 631 (3) of the Criminal Procedure Law with the first sentence of Article 92 of the Constitution of the Republic of Latvia".

The Facts

1. On 21 April 2005, the *Saeima* adopted the Criminal Procedure Law, which entered into effect on 1 October 2005. Article 631 of the Criminal Procedure Law is included in Chapter 59 of this Law that regulates proceedings regarding criminally acquired property.

Article 631 of the Criminal Procedure Law, in the wording that was in force from 1 October 2005 until 30 June 2009, provided: "A court decision may be appealed in the appellate instance court in general procedure."

By the law of 12 March 2009 "Amendments to the Criminal Procedure Law", which entered into effect on 1 July 2009, Article 631 of the Criminal Procedure Law was expressed in the following wording:

(1) A court decision may be appealed within 10 days in a regional court submitting a complaint or protest to a district (city) court.

(2) A complaint or protest shall be examined by a court in the composition of three judges within a term and in accordance with the procedures laid down in Article 629 of this Law, first hearing a submitter of a complaint or protest.

(3) In examining a complaint or protest, a court may repeal a decision of a district (city) court and take a decision referred to in Article 630 of this Law. The decision shall not be subject to appeal."

Since these amendments entered into effect, Article 631 of the Criminal Procedure Law has been amended several times; however, the third part of this article (hereafter – the contested provision) has been in effect in this wording since 1 July 2009.

2. On 29 December 2021, case No. 2021-44-01 "On the compliance of the second sentence of Article 631 (2) of the Criminal Procedure Law with the first sentence of Article 92 of the Constitution of the Republic of Latvia" was initiated at the Constitutional Court.

Six more cases were initiated at the Constitutional Court regarding the compliance of the contested provision with the first sentence of Article 92 of the Constitution: case No. 2022-07-01, case No. 2022-11-01, case No. 2022-12-01, case No. 2022-15-01, case No. 2022-40-01, and case No. 2023-02-01. To facilitate comprehensive and swift adjudication of these cases, on the basis of Article 22 (6) of the Constitutional Court Law, they were joined in one case No. 2021-44-01 "On the compliance of Article 631 (3) of the Criminal Procedure Law with the first sentence of Article 92 of the Constitution of the Republic of Latvia".

3. The applicants – foreign-registered economic operators *1Dream OU*, *Produktech Engineering AG*, *Polaris Consulting Ltd*, *Fortress Finance Inc.*, as well as Artem Zuev, Bakhodir Boltabayevich Parpiyev and Youssef

Fayez Youssef Abdelsayed (hereafter – the Applicants) – allege that the contested provision is incompatible with the first sentence of Article 92 of the Constitution.

The contested provision sets out that in the proceedings regarding criminally acquired property the case must be heard in two judicial instances and does not envisage hearing of it in the cassation procedure. The regional court has been granted the right to repeal the decision by the district (city) court and take a decision that might be contrary to the previous ruling. If the district (city) court has recognised property as criminally acquired and subject to confiscation then the regional court may review the legality of the decision.

However, in the Applicants' case, the proceedings regarding criminally acquired property had been terminated by a decision of a district (city) court but the property has been recognised as criminally acquired and was confiscated by the decision of a regional court, which was the first and the only decision on the confiscation of property. Since, pursuant to the contested provision, this decision is not subject to appeal the Applicants have been denied the possibility to ascertain its legality.

In adopting the contested provision, the legislator has complied with the formal rules of adoption thereof; however, the principle of good legislation has been violated. I.e., the requirements set in the Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (hereafter – Directive 2014/42/EU) have not been implemented. Moreover, it is impossible to deduce from the preparatory materials of the contested provision either its legitimate aim or its suitability for reaching this aim, or other considerations regarding proportionality.

The restriction on fundamental rights, included in the contested provision, has legitimate aims – protecting other persons' rights and public welfare, i.e., ensuring timely resolution, directed at the interests of procedural economy, of the financial matters that have arisen in criminal proceedings, as well as decreasing the state's expenditure linked to storing the seized property.

Prima facie, the contested provision is suitable for reaching these legitimate aims. However, there are reasonable doubts whether these legitimate aims may be applied to the contested provision, insofar it denies the possibility to appeal the decision by a regional court if it is the first decision, by which property has been declared criminally acquired and has been confiscated.

The legitimate aims of the restriction on fundamental rights, included in the contested provision, can be reached by other measures, less restrictive on a person's rights, e.g. by renewing the cassation instance in the proceedings regarding criminally acquired property but, at the same time, envisaging security deposit for submitting a cassation complaint or determining shorter terms for submitting and examining a cassation complaint. Likewise, the right of a regional court to repeal the decision by a district (city) court and transfer the materials for examination anew if a violation of substantive or procedural provisions has been found also could be regarded as a measure that restricts a person's right to a lesser extent.

The public benefit from the fact that, in the proceedings regarding criminally acquired property, the legality of the decision by a regional court cannot be reviewed in cassation procedure does not outweigh the harm inflicted upon an individual's rights and lawful interests. Firstly, objective and fair legal proceedings regarding criminally acquired property are in the interests of society as a whole and society might have only secondary interests in procedural economy and expedited hearing of the case. Moreover, envisaging the cassation instance in cases where the regional court, as the first and the only one, has recognised property as criminally acquired and confiscated it, would ensure not only protection of an individual's fundamental rights but would also comply with the interests of society as a whole because that would facilitate the development of uniform practice.

After familiarising themselves with the materials in the case file, foreign-registered economic operators *1Dream OU* and *Produktech Engineering AG*, as well as Artem Zuev and Bakhodir Boltabayevich Parpiyev expressed considerations regarding the applicability of Directive 2014/42/EU to the proceedings regarding criminally acquired property, regulated in Chapter 59 of the Criminal Procedure Law, as well as requested the Constitutional Court to forward a question for preliminary ruling to the Court of Justice of the European Union. The Applicants hold that, in the present case, the first sentence of Article 92 of the Constitution should be examined in conjunction with the Charter of Fundamental Rights of the European Union (hereafter – the Charter), in particular, its Article 47, Article 8(1),(6) of the Directive 2014/42/ES and Article 4 of the Council Framework Decision 2005/212/JHA of

24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Proceeds (hereafter – the Framework Decision 2005/212/JHA).

4. The institution that issued the contested act – the *Saeima* – holds that the contested provision complies with the first sentence of Article 92 of the Constitution.

Since the proceedings regarding criminally acquired property are an exception to the procedure, in which financial matters are resolved in the basic criminal proceedings, such proceedings may be regulated by different rules aimed at reaching its aim faster and more effectively. The regulation, included in the contested provision, is one of the measures by which fast and effective resolution of financial matters is achieved. I.e., the criminal procedural regulation with respect to criminally acquired property has been developed in a way that the matter of whether property has been criminally acquired and should be confiscated can be reviewed in two judicial instances and, in each of them, the origin of property should be independently verified, by reviewing the facts and legal matters on which the case is based.

Moreover, the requirement to introduce the cassation instance in the proceedings, initiated in the procedure determined in Chapter 59 of the Criminal Procedure Law regarding criminally acquired property, nor the requirement to ensure the possibility to appeal the decision by a regional court, which is the first decision by which property has been declared criminally acquired and confiscated, follow neither from Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter – the Convention), nor the first sentence of Article 92 of the Constitution.

Thus, the matter whether, in the proceedings regarding criminally acquired property, the cassation instance, which reviews only the issues of correct application of substantive and procedural provisions, has been envisaged is rather a matter of expedience, decided by the legislator, than a matter of law.

5. The summoned person – the Ministry of Justice – holds that the contested provision complies with the first sentence of Article 92 of the Constitution.

It is stated in the judgement of the Court of Justice of the European Union of 28 October 2021 in case C-319/19 (hereafter – the Judgement in Case C-319/19) that the

Directive 2014/42/EU must be interpreted to mean that it is not applicable to the legal regulation of a Member State which provides that the national court may rule on the confiscation of proceeds of crime in a procedure that does not apply to the establishment of one or several criminal offences or immediately after such procedure. Although, in the respective case, the legal regulation that envisaged confiscation of property in civil law proceedings was examined, it is essential that Chapter 59 of the Criminal Procedure Law envisages non-conviction based confiscation of criminally acquired property, in which a person's guilt of committing a criminal offence is not examined.

The contested provision does not restrict the Applicants' right to a fair trial, included in the first sentence of Article 92 of the Constitution. A person's right to effectively exercise their right to property is ensured not only during the legal proceedings but starting with the moment when the property is seized. I.e., from the moment when a decision is taken on seizing the property, its owner has the right to inform the person directing the proceedings about any matter, *inter alia*, the right to submit evidence regarding the legal origin of property.

The cassation instance court has an essential role in interpreting and applying legal provisions. It must ensure uniform practice of interpreting and applying legal provisions and not reexamine the evidence that has been examined by lower-instance courts. The proceedings regarding criminally acquired property are directed only at regulating the financial matters in the particular criminal proceedings, thus, by envisaging appeal in cassation proceedings the aim of these special proceedings would not be ensured. I.e., if a district (city) court would take the decision to terminate the legal proceedings regarding criminally acquired property but the regional court would adopt a decision to declare the property criminally acquired, even if appeal in cassation procedure had been envisaged, the re-examination of evidence indicated in the decision by the regional court on their merits would not be ensured because such re-examination does not fall within the competence of a cassation instance court.

6. The summoned person – **the Ombudsman** – points out that the legal remedies, included in Article 8 (6) of the Directive 2014/42/EU, in the part that pertains to ensuring the right to appeal in the separated confiscation proceedings had not been properly adopted and transposed in the Latvian legal regulation.

Since the proceedings regarding criminally acquired property are an exception to the procedure for resolving financial matters in the basic criminal proceedings, such proceedings may be regulated by different rules, aimed at reaching its aims swiftly and effectively. Thus, it cannot be held that the legislator, by not envisaging the possibility to appeal a decision in the cassation procedure in the proceedings regarding criminally acquired property, had acted manifestly contrary to the principle of a fair trial.

However, the provision, included in Article 8 (6) of the Directive 2014/42/EU, that effective possibilities to appeal a confiscation order should be ensured to a person who is subject to confiscation, clearly shows that a person should be ensured the possibility to appeal such a court decision, by which their property is ultimately alienated. The contested provision, pursuant to which the decision taken by a regional court is not subject to appeal, is absolute and final. Thus, in such actual and legal circumstances as in the present case, where the property has been recognised criminally acquired for the first time and confiscated by the decision of a regional court, it can be concluded that effective protection of rights had not been ensured to the Applicants.

7. The summoned person – the Office of the Prosecutor General – holds that the contested provision complies with the first sentence of Article 92 of the Constitution.

The Senate has already pointed out that the considerations of the submitters of a cassation protest and complaint regarding a different assessment of the circumstances in the case rather than the one conducted by the regional court cannot be verified in the cassation procedure. I.e., the cassation instance court conducts only the examination of the lawfulness of the court ruling but does not examine the case on its merits, does not decide on the facts and does not re-examine the evidence in the case. Thus, envisaging the cassation instance in the proceedings regarding criminally acquired property would not be expedient. Whereas limiting the competence of a regional court, by envisaging for it only the possibility to repeal the decision by a district (city) court, actually would not ensure compliance with the requirements set out in Article 8 (6) of the Directive because the considerations made by the regional court would be binding for the district (city) court. Thus, the right to a fair trial and the review of a judgement at a higher instance are fully ensured by two judicial instances.

As regards the application of the Directive 2014/42/EU, the Office of Prosecutor General draws attention to the statements made in the Judgement in Case C-319/19 that the Directive 2014/42/EU, which imposes an obligation upon the Member States to implement a common set of minimum rules regarding the confiscation of instrumentalities of crime and proceeds of crime, in order to facilitate the mutual recognition of confiscation orders issued by courts in the framework of criminal proceedings. However, the Directive 2014/42/EU does not regulate the confiscation of instrumentalities and proceeds of crime, which a national court has tasked to do in proceedings that do not apply to establishing one or several criminal offences or immediately after such proceedings.

8. The summoned person – the Financial Intelligence Unit – holds that the contested provision complies with the first sentence of Article 92 of the Constitution.

In the proceedings regarding criminally acquired property, primarily, it is assessed whether the property has been criminally acquired. If property is declared criminally acquired the matter of further disposal of property is resolved, and this may be not only confiscation of property for the benefit of the state but also protection of the person who has been a victim of criminal offence, by returning the property to its lawful owner. Therefore, it is essential, in such proceedings, to ensure timely resolution of financial matters. Moreover, attention should be paid to the conclusion made in the judgement in case C-319/19 that the Directive 2014/42/EU is not applicable to confiscation of the proceeds of crime, which is done in proceedings that are directed only at establishing the criminal origin of property and which is not directed against the presumed perpetrator of the criminal offence, as well as no measures are taken regarding the possible conviction of this person.

9. The summoned person – the Latvian Council of Sworn Advocates – holds that the contested provision, insofar it does not envisage the possibility to appeal a decision by a regional court, by which property has been for the first time recognised criminally acquired and confiscated, is incompatible with the first sentence of Article 92 of the Constitution.

The Latvian Council of Sworn Advocates subscribes to the finding made in the Ombudsman's opinion regarding inspection case No. 2020-40-4AD that Article 8 (6) of the Directive 2014/42/EU should be interpreted to mean that the state has the obligation to create the possibility to appeal a court's decision that should be considered a confiscation order according to the direct grammatical meaning of the said provision. Accordingly, such a court decision, by which confiscation of property would not be applied, e.g., a favourable decision by a district (city) court on terminating the proceedings regarding criminally acquired property, should not be considered a confiscation order in the meaning of Directive 2014/42/EU.

The contested provision is sufficiently clearly worded and is unambiguous and a person can understand the content of rights and obligations following from it, as well as foresee the consequences of application thereof. However, the contested provision is incompatible with the requirements of the EU law, binding upon Latvia, because the legal safeguards, envisaged in Article 8 (6) of the Directive 2014/42/EU, with respect to ensuring the right to appeal in separated confiscation proceedings have not been properly implemented.

The legitimate aim of the restriction on fundamental rights, included in the contested provision, is to ensure timely resolution, directed at the interests of procedural economy, of the financial matters that have arisen in criminal proceedings. The measures chosen by the legislator are suitable for reaching this legitimate aim. However, this aim could be reached, in the same quality, also by other measures, e.g., by narrowing the regional court's competence or by introducing the cassation instance in the proceedings regarding criminally acquired property.

The Latvian Council of Sworn Advocates upholds the Applicants' opinion that the public benefit gained from the restriction on fundamental rights, established in the contested provision, does not outweigh the harm inflicted upon a person. Primarily, objective and fair legal proceedings regarding criminally acquired property are in the interests of society as a whole and society might have only secondary interests in procedural economy and expedited hearing of the case. Deliberate hastening of the proceedings may impact the quality of proceedings and cause valid doubts regarding a fair course of these proceedings.

10. The summoned person – Docent at the Department of Criminal Law, the Faculty of Law, the University of Latvia, sworn advocate *Dr. iur.* Jānis Rozenbergs – holds that the contested provision is incompatible with the first sentence of Article 92 of the Constitution.

The legitimate aims of the restriction on fundamental rights, included in the contested provision, is timely resolution, directed at procedural economy, of financial matters that have arisen in criminal proceedings, protection of other persons' rights, as well as respecting the right to have criminal proceedings concluded within a reasonable term. The measures chosen by the legislator are suitable for reaching these legitimate aims. However, it is possible to reach the legitimate aims, in equivalent quality, by other measures, e.g., by restoring the cassation instance in the proceedings regarding criminally acquired property or by narrowing the regional court's competence.

Moreover, the public benefit from the regulation that does not envisage appeal of the regional court's decision in proceedings regarding criminally acquired property, does not compensate to an individual for the damage inflicted by the restriction on fundamental rights, included in the contested provision. In a situation where a district (city) court takes a decision, by which the proceedings regarding criminally acquired property are terminated, whereas the regional court decides to declare property criminally acquired and subject to confiscation, a person related to property has been fully denied the possibility to protect their property right against an unlawful decision by the regional court. Namely, substantially, they have no possibilities to rebut the reasoning of the regional court that had been the basis for declaring property criminally obtained and for its confiscation.

11. The summoned person – Lecturer at the Department of Criminal Law, the Faculty of Law, the University of Latvia *Dr. iur.* Gunārs Kūtris – holds that the contested provision is incompatible with the first sentence of Article 92 of the Constitution.

In a case where a district (city) court has decided to terminate proceedings regarding criminally acquired property because its criminal origin has not been proven, whereas the regional court has repealed this decision and declared property criminally acquired, the right to a fair trial, included in Article 92 of the Constitution, substantively, is not ensured. Such a decision by the regional court, by which property has been for the first time recognised criminally acquired and had been confiscated, is a confiscation order with respect to property.

It would not be correct to conclude that in the proceedings, where the court has already had delivered judgement regarding a person's guilt in a crime, the rights of the owner of the infringed property would be protected to a greater extent than the rights of the same person in a process of confiscation, where before that there had been no court judgement on committing a crime. Therefore, the effective possibility to appeal the confiscation order, set out in Article 8 of the Directive 2014/42/EU, should be recognised a mandatory requirement in all cases where a person encounters for the first time an order on the confiscation of their property.

The contested provision is aimed at facilitating faster resolution of a separate procedural matter. However, the principle of procedural economy may not prevail over other principles. It is possible to reach the same aim by other measures, restricting a person's rights to a lesser extent, e.g., by restoring in the normative regulation the initial procedure that allowed appealing a decision by a regional court or by envisaging that, in the case where the regional court's opinion regarding the criminal origin of property differs from the conclusions made in the decision by the district (city) court, the regional court would be obliged to repeal the decision by the district (city) court and transfer the case for re-examination in the district (city) court, specifying the reasons with regard to evidence, which, sin its opinion, requires reassessment.

12. The summoned persons – Head and Docent of the Department of International and European Law, the Faculty of Law, the University of Latvia *Dr. iur.* Arnis Buka and Docent *Dr. iur.* Edmunds Broks – point out that the Directive 2014/42/EU does not regulate confiscation that a national court has ordered to conduct in such procedure that does not pertain to establishing one or several criminal offences.

The judgement by the Court of Justice of the European Union in case C-319/19 has limited the scope of application of the Directive 2014/42/EU. It has been stated that the Directive 2014/42/EU is applicable if two criteria are met. Firstly, the offence, in connection with which confiscation is conducted, must be harmonised on the European Union level in the legal acts of the European Union, referred to in Article 3 of the Directive 2014/42/EU. And, secondly, it is applicable only to such process of confiscation, with respect to which the final and convicting sentence has been pronounced with respect to the criminal offence.

13. The summoned person – PhD student at the Faculty of Law of Riga Stradins University *Mg. iur.* Andrejs Ņikiforovs – holds that the contested provision complies with the first sentence of Article 92 of the Constitution.

The aim of the proceedings regarding criminally acquired property is not confiscating the criminally acquired property for the benefit of the state but restoring the victim's right to property that had been unlawfully taken away or restricted. This explains the need to determine shorter procedural terms, restrict access to materials in the case file, as well as envisage the possibility to appeal the decision by a district (city) court only in a regional court. The decision by the district (city) court regarding criminally acquired property can be appealed in the regional court. The regional court has access to all materials in the case file, explanations that had been accessible to the district (city) court, as well as the ruling by the district (city) court, the complaint and the protest and, possibly, additional explanations and evidence. Thus, when reviewing the materials in the case file in the proceedings regarding criminally acquired property, the regional court has at its disposal a larger amount of information than the district (city) court had. Envisaging the cassation instance in the proceedings regarding criminally acquired property would be neither legally substantiated nor expedient from the victim's perspective as it not only would burden the judicial system but also would turn the proceedings regarding criminally acquired property into a less effective measure for protecting the right to property.

However, *Mg. iur.* Andrejs Ņikiforovs draws attention to the fact that, in practice, in the majority of cases when a person related to property receives the decision on the initiation of proceedings regarding criminally acquired property and separating it from the criminal proceedings, this decision contains neither precise identification of the predicate crime nor evidence that would prove the relation of property to a criminal offence, nor any references to the perpetrators of a criminal offence. Namely, such a decision contains absolutely no direct information that would allow considering property as criminally acquired.

14. The Constitutional Court, hearing the case in written procedure, on 31 January 2023, took the decision to refer a question to the Court of Justice of the European Union for a preliminary ruling and stay the legal proceedings until the ruling by the Court of Justice of the European Union entered into effect.

On 4 October 2024, the Court of Justice of the European Union delivered its judgement in the joined cases C-767/22, C-49/23 and C-161/23 "1Dream and Others". It ruled that the Directive 2014/42/ES and the Framework Decision 2005/212/JHA must be interpreted as meaning that the scope of those acts does not cover national legislation which provides for the possibility, in the course of criminal proceedings to determine whether a person has committed a criminal offence, of initiating proceedings for the confiscation of illegally obtained assets, on the basis of materials contained in the file in the criminal proceedings, where those confiscation proceedings do not concern the finding of such a criminal offence and even though there is no reason relating to the illness or absconding of that person which would prevent him or her from standing trial.

15. On 13 November 2024, the Constitutional Court resumed the legal proceedings in case No. 2021-44-01. After the resumption of legal proceedings, Applicants Artem Zuev and the foreign-registered economic operator *Produktech Engineering AG* have expressed an opinion on the materials in the case file.

The Applicants stated: it would be impermissible that a lower standard of protection of fundamental rights would be ensured to the owners of property only because the separate legal proceedings regarding criminally acquired property do not fall within the scope of the Directive 2014/42/ES and Framework Decision 2005/212/JHA. The minimum rules regarding the safeguards envisaged for persons, included in the respective legal acts of the European Union, are applicable also to the special proceedings regarding criminally acquired property and should be reviewed within the scope of the first sentence of Article 92 of the Constitution.

The Findings

16. The first sentence of Article 92 of the Constitution provides: "Everyone has the right to defend his or her rights and lawful interests in a fair court."

16.1. The Applicants allege that the contested provision is incompatible with the right to a fair trial, included in the first sentence of Article 92 of the

Constitution. I.e., the Applicants have been denied the right to verify the legality of the regional court's decision, by which property in their ownership had been for the first time declared criminally acquired and confiscated, because, pursuant to the contested provision, such a decision of the regional court is not subject to appeal.

The contested provision is part of the legal regulation on the proceedings regarding criminally acquired property, established in Chapter 59 of the Criminal Procedure Law. In the proceedings regarding criminally acquired property, the safeguards for the right to a fair trial are applicable to a person related to this property (*see Judgement by the Constitutional Court of 23 May 2017 in Case No. 2016-13-01, Para. 10)*. A fair trial as due legal proceedings, appropriate for a state governed by the rule of law, comprises several interconnected rights, *inter alia*, also the right to appeal (*compare: Judgement by the Constitutional Court of 8 March 2017 in Case No. 2016-07-01, Para. 28.1.*).

The Constitutional Court, referring to the case-law of the European Court of Human Rights, has declared several times already that, in the proceedings regarding criminally acquired property, Article 6 of the Convention, in its civil limb, is applicable (*see, for example, Judgement by the Constitutional Court of 19 February 2025 in Case No. 2022-01-01, Para. 19.2.*). Thus, the requirement to ensure appeal of a convicting sentence in at least one instance, determined in Article 2 of Protocol 7 to the Convention, is not applicable to the said proceedings. As regards Article 6 of the Convention in its civil limb, it has been stated in the case-law of the European Court of Human Rights that it does not impose an obligation on State Parties to establish cassation or appellate instance courts in all cases; however, if such courts are established they must in their functioning comply with Article 6 of the Convention (*see, for example, Judgement by the European Court of Human Rights of 17 January 1970 in Case "Delcourt v. Belgium", Application No. 2689/65, Para. 25–26*).

The Applicants point out that the compliance of the contested provision with the first sentence of Article 92 of the Constitution should be examined in conjunction with Article 47 of the Charter, Article 8 (1)and (6) of the Directive 2014/42/EU and Article 4 of the Framework Decision 2005/212/JHA. However, the Court of Justice of the European Union has found that such national legal regulation, which is included in the contested provision, does not fall within the scope of application of the Directive 2014/42/EU and Framework Decision 2005/212/JHA (*see Judgement by the Court of Justice of the European Union of 4 October 2024 in Joined Cases C-767/22, C-49/23 and C-161/23 "1Dream and Others", Para. 89*). Article 47 of the Charter and Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders apply to the proceedings regarding criminally acquired property, included in Chapter 59 of the Criminal Procedure Law. In reviewing the constitutionality of the contested provision, it should also be taken into consideration that, pursuant to Article 6 (3) of the Treaty on European Union and Article 52 (3) of the Charter, the fundamental rights that have been guaranteed in the Convention and that are derived from the common constitutional traditions of the Member States are to be considered general legal principles of the European Union and the meaning and scope of the rights, guaranteed in the Convention, that are included in the Charter are the same as of the rights determined in the Convention (*see Judgement by the Constitutional Court of 19 February 2025 in Case No. 2022-01-01, Para. 19.3.*).

Thus, in the present case, the Constitutional Court shall review the compliance of the contested provision with the first sentence of Article 92 of the Constitution, in conjunction with the requirements set in Article 47 of the Charter and Article 6 (1) of the Convention, in its civil limb.

16.2. The Constitutional Court has stated that the legislator, respecting the limits of its discretion, which follow from the Latvian legal system and international human rights standards, binding upon the state, may define such categories of cases, in which court rulings are not subject to appeal (*see Judgement by the Constitutional Court of 12 March 2015 in Case No. 2014-23-01, Para. 10*). Hence, the first sentence of Article 92 of the Constitution does not envisage the state's duty to define, in all categories of cases, a person's right to appeal in a higher-instance court if due legal proceedings had been ensured in a lower-instance court (*compare: Judgement by the Constitutional Court of 28 September 2016 in Case No. 2016-01-01, Para 9*).

Thus, in the present case, to establish whether the contested provision complies with the first sentence of Article 92 of the Constitution, the Constitutional Court shall verify:

1) what the legislator's aim is in regulating the proceedings regarding criminally acquired property and what the nature of these proceedings is;

2) whether, in the proceedings regarding criminally acquired property, in particular, in the regional court, fair legal proceedings are ensured to a person.

17. To establish, whether the contested provision complies with the right to a fair trial, included in the first sentence of Article 92 of the Constitution, the Constitutional Court, firstly, must establish what the legislator's aim is in regulating the particular category of cases and what the nature of that category of cases, in the framework of which a court ruling is made, is.

17.1. In criminal proceedings, it may be necessary simultaneously with proving a person's guilt in committing of a criminal offence, to deal with matters pertaining to a person's financial interests, also, the right to property. However, investigation of criminal offences is often a complicated and prolonged process, in which a decision must be taken on recognising property as criminally acquired and further disposal of this property, without waiting for the final ruling in criminal proceedings. Therefore, it has been provided in the Criminal Procedure Law that financial matters may be resolved not only in the basic criminal proceedings but also in the proceedings regarding criminally acquired property (*see Judgement by the Constitutional Court of 11 October 2017 in Case No. 2017-10-01, Para. 20.1.*).

Returning the criminally acquired property to the victim or its confiscation ensures that justice is restored and the public interests are respected. The Constitutional Court has already found that also Latvia's international commitments comprise the obligation to create such legal regulation that would ensure that criminally acquired property is confiscated. Criminally acquired property is confiscated so that a person would benefit from it and could not enrich themselves unfairly as the result of criminal offence. Even if a person's guilt is not established in criminal proceedings, criminal activities may not bring financial benefit to them. Confiscation of criminally acquired property has also a deterrent and corrective effect, it serves to eliminate the consequences of criminal activities and to restore, to the extent possible, the situation that existed before the criminal activities were taken. To fulfil these tasks, criminally acquired property must be taken out of the civil turnover – that is the main aim for confiscation of property (*compare: Judgement by the Constitutional Court of 23 May 2022 in Case No. 2021-18-01, Para. 26.2.–26.3.*).

Article 626 (1) of the Criminal Procedure Law provides that an investigator with the consent of the supervising prosecutor or a prosecutor has the right, in the interests of solving the financial matters which have arisen in pre-trial criminal proceedings, in timely manner and in the interests of the economy of proceedings, to separate the materials from a criminal case regarding criminally acquired property and to initiate proceedings if the following conditions exist: 1) the totality of evidence provides grounds to believe that the property that has been removed or seized is criminally acquired or related to a criminal offence; 2) due to objective reasons, the transferral of the criminal case to court is not possible in the near future (in a reasonable term), or such transferral may cause substantial unjustified expenses.

Thus, the legislator's aim, in separating the examination of financial matters in separate proceedings, was to ensure that the financial matters that have arisen in criminal proceedings are resolved in timely manner and in the interests of procedural economy (*see Judgement by the Constitutional Court of 11 October 2017 in Case No. 2017-10-01, Para. 20.2.*), i.e., to take out the criminally acquired property of the civil turnover in a procedure that is as effective as possible.

17.2. Proceedings regarding criminally acquired property are separate proceedings, separated from the basic criminal proceedings. It is typical for these proceedings that a person's guilt is not established therein but a decision is taken on the criminal origin of property or its links to a criminal offence. Proceedings regarding criminally acquired property comply with the designation of such special proceedings in the doctrine – "proceedings *in rem*" (*compare: Judgement by the Constitutional Court of 23 May 2022 in Case No. 2021-18-01, Para. 26.1.*). It has been found also in case-law that, in proceedings regarding criminally acquired property, the origin of property must be examined and whether there are circumstances due du to which this property may be declared criminally acquired and not whether a person has committed a criminal offence (*see, for example, Decision by Panel of Criminal Cases of Riga Regional Court of 21 May 2031 in Case No. 11816005518*).

Moreover, in these proceedings, the final decision is taken on the matter of the origin of property. I.e., if the proceedings regarding criminally acquired property have been held during the pre-trial criminal proceedings and the court has declared property criminally acquired then the court in the basic criminal proceedings does not have to decide on this matter repeatedly.

Thus, the proceedings regarding criminally acquired property are separate and distinct proceedings, in which a court decides only on one matter that has arisen in the case – the financial matter.

17.3. Proceedings regarding criminally acquired property are an exception to resolution of financial matters in the basic criminal proceedings and therefore different rules may be set for these proceedings, aimed at reaching their aim swiftly and effectively.

The Applicants and several persons summoned in the case point out that swift and effective resolution of financial matters in the proceedings regarding criminally acquired property is not an end in itself. It is alleged that it is not proportional that, in examining the matter of the criminal origin of property in the basic criminal proceedings, the right to appeal the decision by the regional court is ensured to a person, whereas in the proceedings regarding criminally acquired property this right is not ensured. To respect a person's right to a fair trial, as well as ensure uniform practice of hearing the proceedings regarding criminally acquired property, the possibility to appeal in the cassation instance should be envisaged for at least such decision by the regional court, by which the property has been declared for the first time criminally acquired and confiscated.

The *Saeima,* in turn, points out: the fact alone that, in the proceedings regarding criminally acquired property, the safeguards regarding the right to a fair trial, which follow from Article 6 (1) of the Convention and the first sentence of Article 92 of the Constitution, are applicable to a person related to property does not mean that the cassation instance should be ensured in these proceedings. I.e., the requirement to introduce the cassation instance in the proceedings regarding criminally acquired property or the requirement to ensure the possibility to appeal against the decision of a regional court, by which the property has been recognised as criminally acquired after the decision by a district (city) court, favourable for the person has been appealed, follows neither from Article 6 (1) of the Convention nor the first sentence of Article 92 of the Constitution.

The Constitutional Court has already found that the legislator, in a democratic state governed by the rule of law, in adopting procedural laws has the discretion to determine the categories of cases to be reviewed in respective proceedings and to decide on the procedure for hearing different categories of cases. Likewise, the legislator has the right to determine the procedure for hearing cases, *inter alia*, for appealing rulings, that are compatible with fundamental rights (*see, for example, Judgement by the Constitutional Court of 7 October 2010 in Case No. 2010-01-01, Para. 17*).

The cassation instance fulfils a special function, and it has public law nature aimed at uniform interpretation and application of the substantive and procedural legal provisions in the entire state (*see Judgement by the Constitutional Court of 27 June 2003 in Case No. 2003-04-01, Para. 2.1. of the Findings*). However, examination and re-assessment of the evidence in the materials of the case file do not fall within the competence of a cassation-instance court, likewise, it does not examine the considerations stated in the cassation complaint or protest regarding another assessment of circumstances in the case than the one provided by the appellate-instance court (*see, for example, Decision by the Senate of the Supreme Court of 17 January 2006 in Case No. SKK-8/2006, p. 7*).

Until 1 July 2009 when the contested provision entered into effect, Article 631 of the Criminal Procedure Law provided that the decision taken by the first-instance court in proceedings regarding criminally acquired property could be appealed in an appellate-instance court in general procedure. Thus, initially, the legislator had established the general procedure with respect to possibilities of appealing the decisions taken by courts in the proceedings regarding criminally acquired property, *inter alia*, envisaging that the decision by the appellate-instance court could be appealed in the cassation procedure (*see Decision by the Senate of the Supreme Court of 6 March 2008 in Case No. SKK-93/2008, p. 4*).

In view of the fact that the matter of the origin of property is examined in the proceedings regarding criminally acquired property, as well as the fact that these proceedings have been created to ensure as fast and effective as possible resolution of financial matters, the legislator, in adopting the contested provision, decided to determine further examination of financial matters only in two instances. Thus, the regulation, included in the contested provision, is one of the measures by which faster and more effective resolution of financial matters is achieved. Moreover, the Constitutional Court has already concluded: although the financial matters may be resolved both in the proceedings regarding criminally acquired property and in the basic criminal proceedings, it should be recognised that, in view of the different nature and aim of the proceedings regarding criminally acquired property, there are no grounds for comparing these proceedings (*see Judgement by the Constitutional Court of 11 October 2017 in Case No. 2017-10-01, Para. 20.2.*).

Hence, the proceedings regarding criminally acquired property are special proceedings, separated from the basic criminal proceedings, directed only at resolution of the financial matters that have arisen in the criminal proceedings in the interests of procedural economy.

18. After the aim for which the legislator regulates the proceedings regarding criminally acquired property, as well as the nature of these proceedings have been established, the Constitutional Court must verify whether, in the proceedings regarding criminally acquired property, fair trial proceedings are ensured to a person, in particular, in the regional court.

The principle of a state governed by the rule of law requires hearing of cases in such a procedure that would ensure fair and objective adjudication of them (*see Judgement by the Constitutional Court of 10 February 2017 in Case No. 2016-06-, Para. 32*). The procedure of hearing a case is fair if the requirement to ensure to a person the right to be heard and the right to use in full the possibility to submit evidence has been met (*see Judgement by the Constitutional Court of 28 September 2016 in Case No. 2016-01-01, Para. 10*). Moreover, the first sentence of Article 92 of the Constitution requires applying, in all legal proceedings, the equality of arms principle in a way that is appropriate for the nature of the respective legal proceedings (*see Judgement by the Constitutional Court of 19 February 2025 in Case No. 2022-01-01, Para. 19.5.*). The European Court of Human Rights has also pointed out: the manner in which Article 6 (1) of the Convention applies to courts of appeal and cassation depends on the special features of the respective category of cases and the entirety of the proceedings must be taken into account (*see Judgement by the European Court of Human Rights of 5 April 2018 in Case "Zubac v. Croatia", Application No. 40160/12, Para 82*).

18.1. Since 1 July 2009, when the contested provision entered into effect, the regulation of the Criminal Procedure Law with respect to the proceedings regarding criminally acquired property has been amended several times. The Applicants' proceedings regarding criminally acquired property took place in the period from 1 April 2021 until 10 November 2022 (hereafter – the respective period). Thus, the Constitutional Court shall, first of all, examine the procedure that was in force in the respective period, in which a complaint or a protest with respect to the decision on criminally acquired property by a district (city) court was examined in the regional court.

18.1.1. Pursuant to Article 631 (2) of the Criminal Procedure Law, a complaint or protest with respect to the decision by a district (city) court is examined by a court in the composition of three judges within a term and in accordance with the procedures laid down in Article 629 of this law, first hearing a submitter of a complaint or protest.

In the respective period, Article 629 of the Criminal Procedure Law provided that the judge, having received a decision to initiate proceedings regarding criminally acquired property, had the obligation to determine the time and place of the court hearing; summon the person directing the proceedings and a prosecutor, as well as the persons related to property, referred to in Article 628 of this law to the court hearing, and the court hearing had to take place within 10 days after receipt of a decision of the person directing the proceedings in a court. To ensure protection of the secret of investigation, the proceedings must be heard in a closed court hearing, and the person directing the proceedings, a prosecutor, other summoned and arrived persons, their representatives or defence counsels are heard in it. Moreover, at the court hearing, the persons involved in court proceedings have equal rights to submit recusations or requests, to submit evidence , to submit written explanations, as well as to participate in examination of other matters which have arisen during the court proceedings.

The Constitutional Court has found that the right be heard is exercised in several ways, e.g., as the right to receive full information about the opinion expressed, evidence and facts collected by the opposing party, as well as the right to expect that the court ruling, taking into account the opinion expressed by the parties, would be reasoned. Moreover, this right comprises a person's right to make statements regarding facts and legal matters. The exercise of this right should be ensured at least in writing (*see Judgement by the Constitutional Court of 10 February 2017 in Case No. 2016-06-01, Para. 33.1.).*

Pursuant to Article 629 of the Criminal Procedure Law, during the respective period, the right to participate in the court hearing, in which a complaint or a protest with respect to a decision by a district (city) court was reviewed, had been ensured to a person related to property. The right to familiarise themselves with the complaint or the protest, submitted to the court, to submit written explanations about it and, at the court hearing, make statements regarding the complaint or the protest, as well as regarding the considerations made at the court hearing by the person directing the proceedings or by the prosecutor had been ensured to this person, their representative or defence counsel. Moreover, the right to submit to the regional court evidence, which substantiates the lawful origin of property and which they had not submitted to the district (city) court has been ensured to the person related to property.

The Applicants contend that, pursuant to Article 630 of the Criminal Procedure Law, the regional court does not have the right to take a decision by which it is the first to declare property criminally acquired. Allegedly, pursuant to the said provision, the regional court has only the right either to leave unamended the decision of the district (city) court or to take a decision, by which it terminates proceedings regarding criminally acquired property if the district (city) court has recognised the property criminally acquired. However, even if the regional court has this right, a just regulation in the proceeding regarding criminally acquired property would be such regulation that would narrow the regional court's competence, allowing it either to leave the decision by the district (city) court unamended or to repeal it and transfer materials for examination anew. Moreover, the regional court's decisions, by which the Applicants' property was declared criminally acquired, had not be sufficiently substantiated. I.e., all materials in the case had not been properly examined, *inter alia*, evidence submitted by the Applicants.

As regards the matter whether the regional court, taking decisions in the Applicants' proceedings regarding criminally acquired property, properly examined all materials in the case, the Constitutional Court has already noted that reviewing the lawfulness of the application of legal provisions does not fall within its competence (*see, for example, Judgement by the Constitutional Court of 28 September 2016 in Case No. 2016-01-01, Para. 10.2.*). At the same time, pursuant to the requirements of the Criminal Procedure Law, the regional court, in taking its decision, has the obligation to substantiate its opinion.

The contested provision stipulates: in examining a complaint or a protest, a regional court may repeal the decision of the district (city) court and take one of the decisions, referred to in Article 630 of the Criminal Procedure Law, which is not subject to appeal. In the respective period, Article 630 of this law provided that a court, in examining materials regarding criminally acquired property, had to decide: 1) whether the property was criminally acquired or related to a criminal offence; 2) whether the owner or lawful possessor of the property was known; 3) whether any person had lawful rights to the property; 4) disposal of the criminally acquired property. If the court finds that the connection of property with a criminal offence has not been proven or that the origin of the property is not criminal it takes the decision to terminate the proceedings regarding criminally acquired property. If the court, however, takes the decision to terminate the proceedings regarding criminally acquired property in such criminal proceedings that have been terminated for non-exonerating reasons it decides additionally also on removing the seizure from property.

It can be concluded from the above that, within the respective period, a regional court, just like a district (city) court had the obligation to review all materials regarding criminally acquired property and decide anew whether property had been criminally acquired or connected to a criminal offence. I.e., a regional court had to decide whether to leave in force the decision by a district (city) court or to repeal it and make a new decision on the merits, which might include also a case where it, contrary to the district (city) court declares the property criminally acquired and confiscates it.

The Constitutional Court has already established that the regional court's competence in the proceedings regarding criminally acquired property is not limited to the re-examination of legal matters because it repeatedly verifies the facts in the case and assesses evidence with respect to them (*see Judgement by the Constitutional Court of 24 February 2025 in Case No. 2023-40-01, Para 10.2.*). In difference to the district (city) court, the regional court had at its disposal a large amount of material because, in addition to the materials submitted to and examined in the district (city) court, the regional court had the obligation to review also the complaint or the protest, as well as written explanations, submitted by the persons involved in the proceedings, if such had been submitted. However, the matters of fact and law to be examined in the case, on their merits, were the same that had been examined in the district (city) court and, thus, the matter of the origin of property in the proceedings regarding criminally acquired property was examined on its merits in two judicial instances.

It should be taken into account that, in the respective period, Article 629 (4) of the Criminal Procedure Law envisaged the right of persons involved in the proceedings to submit to the regional court also new evidence regarding the origin of property. Therefore, in some cases, the regional court might have reviewed some evidence as the first and only instance.

However, the regional court as such is a higher-instance court where decisions are taken in the composition of three judges or in a collegial manner. The aim of the collegiality principle is comprehensive consideration of essential facts and legal matters in the case, discussing these and finding an appropriate legal solution. This aim is reached by collegially assessing the possible solutions and reaching a just outcome (*compare: Judgement by the Constitutional Court of 14 June 2018 in Case No. 2017-23-01, Para. 13.3.*). Thus, also collegiality is one of the principles that guarantee a court's objectivity and serves as an additional safeguard in the protection of a person's rights. Moreover, as noted above in this judgement, the requirement to ensure in the proceedings regarding criminally acquired property review of a case on its merits in two judicial instances does not follow from international commitments in the area of human rights, binding upon Latvia.

Thus, the procedure in which, during the respective period, a complaint or a protest regarding the decision by the district (city) court in proceedings regarding criminally acquired property was examined in the regional court ensured to a person the right to be heard and the right to use in full the possibility to submit evidence.

18.1.2. Compliance with the equality of arms principle also should be ensured in proceedings regarding criminally acquired property. In proceedings regarding criminally acquired property, the equality of arms principle, on the one hand, envisages for all participants therein the possibility to state the facts of the case and, on the other hand, prohibits from granting substantial advantages to any of the participants (*see Judgement by the Constitutional Court of 25 February 2025 in Case No. 2022-01-01, Para. 19.1.*).

Pursuant to Article 629 (3) and (4) of the Criminal Procedure Law, within the respective period, equal rights to speak at the court hearing, submit recusals or requests, submit evidence, submit to the court written explanations, as well as participate in the hearing of other matters that had arisen in the course of legal proceedings had been ensured to all persons involved in the proceedings regarding criminally acquired property. These procedural rights were equally ensured to the parties involved in the proceedings both in the district (city) court and in the regional court.

For a person related to property to be able to submit evidence regarding the lawful origin of property they must know the facts, on which the assumption by the person directing the proceedings regarding the criminal origins of property are made. Article 627 (4) of the Criminal Procedure Law regulates the right of participants in the case to familiarise themselves with materials in the proceedings regarding criminally acquired property. The Constitutional Court already found that the fourth and the fifth part of this article, *inter alia*, within the respective period, ensured the right of a person related to property to familiarise themselves with the materials in the proceedings regarding criminally acquired property in such a scope that would ensure respect for their fundamental rights (*compare: Judgement by the Constitutional Court of 19 February 2025 in Case No. 2022-01-01, Para. 20.4.*). The matter of whether and the scope in which the person directing the proceedings has indicated, on case-by-case basis, in the decision on initiating proceedings regarding criminally acquired property, the protest or complaint regarding the decision by the district (city) court the evidence that substantiates the assumption regarding the criminal origin of property is the matter of application of legal provisions and the Constitutional Court does not review it.

Likewise, the Constitutional Court has concluded that the regulation of the Criminal Procedure Law on the proceedings regarding criminally acquired property provides that the burden of proving the origin of property is shared by the person directing the proceedings and the person related to property. I.e., the evidence that substantiates the assumption regarding the criminal origin of property must be submitted by the person directing the proceedings, whereas the evidence regarding the lawful origin of property – by the person related to property. This regulation does not disrupt the balance of parties' rights and does not create disproportionate burden of proof for the person related to property (*see Judgement by the Constitutional Court of 14 March 2025 in Case No. 2022-32-01, Para. 18*).

Thus, in the procedure regarding proceedings regarding criminally acquired property, in which, during the respective period, a complaint or a protest against a decision by the district (city) court was reviewed in the regional court ensured compliance with the equality of arms principle.

Thus, the procedure, determined in the Criminal Procedure Law, in which, during the respective period, a complaint or a protests regarding the

decision by a district (city) court in proceedings regarding criminally acquired property was reviewed, ensured to a person fair legal proceedings.

18.2. By the law of 6 October 2022 "Amendments to the Criminal Procedure Law" (hereafter– the Amendments of 6 October 2022) and the law of 19 September 2024 "Amendments to the Criminal Procedure Law" (hereafter – the Amendments of 19 September 2024), amendments have been introduced to, *inter alia*, to legal provisions that regulate the procedure, in which a complaint or a protest with respect to the decision by a district (city) court is reviewed in a regional court.

By the Amendments of 6 October 2022, the procedure for submitting evidence, determined in Article 629 of the Criminal Procedure Law, was changed. Currently, this provision states that the persons involved in legal proceedings have equal rights to submit recusations or requests, to submit to a district (city) court evidence, to submit written explanations to a court, as well as to participate in the examination of other matters which have arisen during the legal proceedings. Thus, by Article 629 (4) of the Criminal Procedure Law, the submission of evidence is restricted because participants in the case have been granted the right to submit evidence regarding property only to a district (city) court.

Moreover, by the Amendments of 6 October 2022, the fourth part was added to Article 631 of the Criminal Procedure Law, which envisages the duty of a regional court to repeal the decision of a district (city) court and transfer materials for examination anew if the regional court, reviewing a complaint or a protest, identifies such a violation of the Criminal Procedure Law that it cannot eliminate by itself. I.e., until the date when the Amendments of 6 October 2022 entered into effect, if the regional court concluded that a district (city) court, in taking a decision, had not examined some items of evidence at all, it could take only two decisions – declare property criminally acquired or terminate the proceedings regarding criminally acquired property. However, presently, pursuant to Article 631 (4) of the Criminal Procedure Law, upon finding that the district (city) court had not examined particular evidence, the regional court is obliged to repeal the decision by the district (city) court and transfer the materials for examining anew, thus ensuring examination of evidence in two judicial instances (*see Annotation to the draft law No. 1323 of the 13th Saeima "Amendments to the Criminal Procedure Law". Available in the archive of the draft laws of the 13th Saeima, website: saeima.lv*).

Whereas by the Amendments of 19 September 2024, it is stipulated in the first sentence of Article 629 (2) of the Criminal Procedure Law that the court hearing must be held within 30 days after the decision by the person directing the proceedings has been received in court. Before these amendments entered into effect, this provision stipulated that the court hearing had to take place within 10 days after receipt of a decision of the person directing the proceedings to a court. Since the provisions of Article 629 of the Criminal Procedure Law apply also to the course of the proceedings in a regional court the court hearing, in which a complaint or protest regarding a decision by a district (city) court is examined, must take place within 30 days after the receipt of the complaint or the protests in court.

Likewise, by the Amendments of 19 September 2024, the fifth part was added to Article 631 of the Criminal Procedure Law, envisaging the right of a regional court to repeal a decision of a district (city) court and hand over materials for a new examination also if the person involved in the proceedings had submitted evidence which could not be submitted to the district (city) court due to objective reasons.

One of the aims of the Amendments of 6 October 2022 was to ensure that in the proceedings regarding criminally acquired property the same evidence is examined by a district (city) court and a regional court, thus ensuring that the matter regarding the origin of property is examined on its merits in two judicial instances (*see Judgement by the Constitutional Court of 24 February 2025 in Case No. 2023-40-01, Para. 10.2.*). However, until the date when Article 631 (5) entered into effect, i.e., 22 October 2024, such regulation prohibited the persons involved in the proceedings from submitting to the regional court such evidence that they due to objective reasons had been unable to submit to the district (city) court.

The Constitutional Court already concluded that Article 631 (4) of the Criminal Procedure Law, which allowed a regional court to repeal a decision by a district (city) court if it identified a violation of the Criminal Procedure Law, which it could not eliminate by itself, did not apply to cases where an item of evidence had not been submitted to a district (city) court due to objective reasons.

Hence, the Constitutional Court found that, in such circumstances, compliance with the equality of arms principle was not ensured to a person related to property and Article 629 (4) of the Criminal Procedure Law, insofar it until the day when Article 631 (5) of the Criminal Procedure Law entered into effect, i.e., 22 October 2024, did not ensure to a person the right to submit evidence to a regional court due to objective reasons was incompatible with the first sentence of Article 92 of the Constitution (*see Judgement by the Constitutional Court of 24 February 2025 in Case No. 2023-40-01, Para. 10.2.2. and Para. 13.*).

However, with Article 631 (5) of the Criminal Procedure Law entering into effect, the legislator has ensured that the persons involved in the proceedings regarding criminally acquired property have the right to submit evidence to a regional court if due to objective reasons it had been impossible to submit the evidence to a district (city) court and that the court assesses the impact of this evidence on the decision. The regional court has the obligation to assess and establish, on case-by-case basis, whether the fact that evidence was not submitted in a timely manner to a district (city) court should be qualified as a situation caused by objective circumstances or, for example, a person's deliberate action to delay the proceedings.

Thus, the currently valid regulation on the proceedings regarding criminally acquired property sets out the procedure, in which a complaint or a protest with respect to a decision by a district (city) court regarding criminally acquired property is heard in a regional court, ensures to a person the right to be heard, the right to use the possibility to submit evidence, as well as compliance with the equality of arms principle. This regulation provides for the examination of cases regarding criminally acquired property on their merits in two judicial instances. Moreover, it provides for the obligation and right of a regional court, in certain cases, to repeal the decision by a district (city) court and transfer materials for examination anew, as well as does not prohibit a regional court, in examining materials in the case regarding criminally acquired property, from declaring, contrary to the ruling by a district (city) court, property criminally acquired and to confiscate it.

Thus, in the proceedings regarding criminally acquired property in a regional court, the legislator has ensured to a person fair trial proceedings.

19. In view of all the above, it can be concluded that the proceedings regarding criminally acquired property are such proceedings that have been separated from the basic criminal proceedings for a particular aim – timely resolution of financial matters that have arisen in criminal proceedings, directed at the interests of procedural economy. The requirement to ensure that the decision by a regional court, taken in the proceedings regarding criminally acquired property, can be appealed in a higher instance does not follow either from the first sentence of Article 92 of the Constitution or from international commitments in the area of human rights, binding upon Latvia. Fair trial proceedings are ensured to a person in the proceedings regarding criminally acquired property, *inter alia*, in a regional court, which examines a complaint or a protest regarding a decision by a district (city) court on criminally acquired property.

Thus, the contested provision complies with the first sentence of Article 92 of the Constitution.

The Substantive Part

On the basis of Article 30–32 of the Constitutional Court Law, the Constitutional Court

held:

to declare Article 631 (3) of the Criminal Procedure Law compatible with the first sentence of Article 92 of the Constitution of the Republic of Latvia.

The judgement is final and not subject to appeal.

The judgement enters into effect on the day of its publication.

Presiding Judge Irēna Kucina