Constitutional judgment 3-4-1-52-13

JUDGMENT
in the name of the Republic of Estonia

Case number	3-4-1-52-13
Date of judgment	29 January 2014
Formation	Chairman: Priit Pikamäe; members: Lea Kivi, Lea Laarmaa, Jaak Luik and Ivo Pilving
Case	Review of the constitutionality of subsection 3 of § 11 of the Land Tax Act.
Basis for procedure	Judgment of Tallinn Administrative Court of 18 October 2013 in case no. 3-13-1499
Hearing	Written
OPERATIVE PART	**To dismiss the request of Tallinn Administrative Court of 18 October 2013.**

FACTS AND COURSE OF PROCEDURE

1. Ülle Jõemets is the owner of a legal share of ½ of the registered immovable, whose total size is 23 100 m2 and which is located at Pärnamäe tee 55, Tallinn. On 17 June 2013, the Tax and Customs Board (TCB) submitted to Ü. Jõemets tax notice no. 409113, according to which in 2013 she had to pay land tax of 2331 euros 12 cents. According to the tax notice, the taxable value of the land of the immovable at Pärnamäe tee 55 is 199 440 euros. Under subsection 3 of § 11 of the Land Tax Act (LTA), Ü. Jõemets is subject to tax exemption to the extent which corresponds to the land tax calculated for the estimated part of 750 m2 of the land liable to taxation and the land tax rate is 2.5% of the taxable value of the land a year. The amount of land tax is calculated as follows: 199 440 ÷ 2 × 2.5% - 199 440 ÷ 23 100 × 750 × 2.5%. A tax at the rate of 2.5% has been imposed on the part of the taxable value of the land for a year that corresponds to the size of Ü. Jõemets' share in the common ownership, from which the part of the amount of the land tax exemption calculated on the basis of subsection 3 of § 11 of the LTA that corresponds to the size of her common

ownership has been deducted.

2. On 11 July 2013, Ü. Jõemets filed a claim with the Tallinn Administrative Court in which she requested the annulment of tax notice no. 409113 of the Tax and Customs Board of 17 June 2013.

JUDGMENT OF TALLINN ADMINISTRATIVE COURT

3. Tallinn Administrative Court granted the claim of Ü. Jõemets, annulled tax notice no. 409113 of the TCB of 17 June 2013, refused to apply subsection 3 of § 11 of the LTA and declared it to be in conflict with the Constitution to the extent that it restricts the application of the tax incentive provided for in subsection 1 of § 11 of the LTA so that co-owners of residential land in common ownership are exempt from the obligation to pay land tax on residential land to the total extent of 0.15 hectares in cities.

4. Under § 12 of the Constitution, it is not reasonable to differentiate co-owners of a plot of land from flatowners. The relationship between a flatowner or a co-owner and the object of land tax is identical, due to which the land tax incentives established on those persons should be identical.

5. The purpose of establishing a tax incentive was the exemption of land under a home from land tax. In the event of flat ownerships, every flat usually constitutes a separate home.

6. In light of the principle of equal treatment of persons and the purposes of exemption of land under a home from tax, the solution where the size of the tax incentive depends on the number of land owners is also questionable.

7. If co-owners do not live in a common home, then, being guided by the purpose of the tax incentive, there is no reasonable reason why a tax incentive should be applied to them jointly.

8. The Land Tax Act does not violate the rights to inviolability of property and homes provided for in §§ 32 and 33 of the Constitution. The inviolability of property is not unlimited and this does not prohibit taxation of things within the ownership of a person. A land tax of 2.5% is not disproportionately high. Likewise, the law sets out the possibility of a tax incentive.

OPINIONS OF PARTIES

Constitutional Committee of the *Riigikogu*

9.–30. [Not translated.]

PROVISION DECLARED UNCONSTITUTIONAL

31. The first sentence of subsection 3 of § 11 of the Land Tax Act (RT I 1993, 24, 428; 22.12.2012, 1):

32. "(3) If land is in joint or common ownership, the joint owners or co-owners are exempt from the obligation to pay land tax on the terms and conditions specified in subsection 1 of this section on the yard land of residential or profit-yielding land to the total extent of 0.15 hectares in cities, cities without municipal status, towns, small towns and areas designated as densely populated areas by a local authority under a comprehensive plan or by a county governor under a county plan and to the total extent of 2.0 hectares elsewhere."

OPINION OF CHAMBER

33. First, the Chamber will discuss the relevance of the provision (I), thereafter the infringed fundamental rights (II) and the justification of different treatment (III) and, finally, the proportionality of the infringement (IV).

I

34. In the judicial constitutional review procedure, the Supreme Court reviews the constitutionality of a provision that is relevant to the adjudication of the specific case (subsection 2 of § 14 of the Judicial

Constitutional Review Procedure Act (JCRPA)). A relevant provision is one that is of decisive importance in the adjudication of a case, i.e. in the event of whose unconstitutionality and invalidity the court would have to decide otherwise than in the event of constitutionality of the provision (the judgment of the Supreme Court *en banc* of 22 December 2000 in case no. 3-4-1-10-00, point 10; the judgment of 28 October 2002 in case no. 3-4-1-5-02, point 15).

35. The Tax and Customs Board submitted to Ü. Jõemets a tax notice, in accordance with which in 2013 she had to pay land tax of 2331 euros 12 cents. According to the tax notice, under subsection 3 of § 11 of the LTA, Ü. Jõemets is subject to tax exemption for the estimated part of 750 m2 of the land liable to taxation.

36. Since Ü. Jõemets owns a legal share of ½ of the immovable in common ownership, then subsection 3 of § 11 of the LTA must be applied in respect of the land tax incentive, in accordance with which Ü. Jõemets is exempt from the payment of land tax to the extent of 750 m^2. Thus, subsection 3 of § 11 of the LTA can be deemed relevant to the extent, according to which the land tax incentive extends to co-owners in cities to the total extent of 0.15 hectares.

37. The Administrative Court delimited in the event of common ownership a relevant provision only with cities. However, regarding common ownership, subsection 3 of § 11 of the LTA regulates land tax exemption also in other densely populated areas besides cities (i.e. towns, small towns and areas designated as densely populated areas by a local authority under a comprehensive plan or by a county governor under a county plan), where up to 0.15 hectares is exempt from tax and in areas outside densely populated areas, i.e. in low-density areas, where up to 2 hectares is exempt from tax.

38. From the point of view of the equal treatment of co-owners of immovables and flatowners, there is no significant difference between whether the taxable land is located in a densely populated area or in a low-density area and which specific densely populated area it is in. The constitutional problem in the case is whether the tax incentive must extend to each co-owner separately, like in the event of a flat ownership or whether it has to be divided between all the co-owners regardless of where the land under the home is located.

39. In light of the above and in order to ensure the effectiveness of the review of constitutionality, the Chamber deems subsection 3 of § 11 of the LTA relevant to the extent that co-owners are exempt from the obligation to pay land tax on the terms and conditions specified in subsection 1 of § 11 of the LTA on residential land to the total extent of 0.15 hectares in cities, cities without municipal status, towns, small towns and areas designated as densely populated areas by a local authority under a comprehensive plan or by a county governor under a county plan and to the total extent of 2.0 hectares elsewhere.

II

40. According to subsection 1 of § 11 of the LTA, the terms and conditions for the receipt of tax incentive of the land under a home are as follows: 1) the person is the owner or user of the land (§§ 3 and 10 of the LTA); 2) the intended purpose of the land is residential or profit-yielding land that includes yard land; 3) there is a building located on the land; 4) based on the residence data entered in the population register, the land owner's or the land user's permanent place of residence is in the building located on the land.

41. The fundamental right of equality arising from subsection 1 of § 12 of the Constitution is infringed if comparable groups are treated in a different manner in a similar situation (the judgment of the Constitutional Review Chamber of the Supreme Court of 27 December 2011 in case no. 3-4-1-23-11, point 42).

42. The exercise of the land tax incentive of land under a home is affected by the fact of whether the structure located on the taxable plot of land has been divided into flat ownerships.

42.1. If the total tax incentive of all co-owners is 1500 m2 (in low-density areas 2 hectares) regarding an immovable that belongs to several persons and accommodates a structure that has not been divided into flat

ownerships, the tax incentive extends to each flatowner to the extent of 1500 m2 (subsection 3 of § 11 of the LTA) regarding the flat ownerships.

42.2. Common ownership means ownership of legal shares of a shared thing belonging to two or more persons concurrently (subsection 3 of § 70 of the Law of Property Act (LPA)). A flat ownership means ownership of the physical share of a structure together with a legal share of the common ownership of the immovable to which the physical share belongs. Provisions of the Law of Property Act concerning immovable property ownership govern flat ownership matters not regulated by the Flat Ownership Act (subsection 1 of § 1 of the Flat Ownership Act (FOA)). Under subsection 2 of § 1 of the FOA, the objects of common ownership include a plot of land and such parts and equipment of a structure which, under subsection 2 of § 2 of the FOA, are not part of the physical share of any flat ownership and are not in the ownership of a third person (see the judgment of the Civil Chamber of the Supreme Court of 8 February 2012 in case no. 3 2 1 156 11, point 30). Thus, a plot of land is not divided into physical shares in the event of a flat ownership either, but it is in common ownership of all flatowners. However, it is important that in the event of a flat ownership a legal share of land also belongs to the physical share (the first sentence of subsection 1 of § 1 of the FOA). A flatowner can dispose of a legal share of a plot of land only jointly with the physical share of the structure (subsection 3 of § 1 of the FOA).

42.3. According to the Chamber, different treatment means the following: in the event of a flat ownership, the land tax exemption is determined on the basis of subsection 1 of § 11 of the LTA, pursuant to which in the event of a flat ownership each flatowner is exempt from the payment of land tax on residential land to the extent of up to 0.15 hectares (in low-density areas 2 hectares). However, in the event of an immovable in common ownership the tax incentive of 0.15 hectares (in low-density areas 2 hectares) is divided between all co-owners of the plot of land. In both events the plot of land, on which structures are located, is in common ownership. In the present case there are two co-owners. According to the first sentence of subsection 3 of § 11 of the LTA, the land tax incentive of the appellant, i.e. one co-owner, is: 199 440 (taxable value of the land) ÷ 23 100 (size of the immovable) × 750 (tax exemption) × 2.5% (tax rate) = 161 euros 88 cents. If there were two flatowners under the same conditions, the land tax incentive of one flatowner would be: 199 440 (taxable value of the land) ÷ 23 100 (size of the immovable) × 1500 (tax exemption) × 2.5% (tax rate) = 323 euros 77 cents. Thus, under similar circumstances owners of an immovable in common ownership receive a lower land tax incentive within the meaning of the first sentence of subsection 3 of § 11 of the LTA than flatowners.

42.4. To receive the tax incentive, the place of residence of both co-owners of an immovable as well as flatowners must be located on the plot of land. Thus, it is possible to compare co-owners with flatowners. They are treated in a different manner depending on whether the physical shares of a structure located on the plot of land have been delimited or not.

42.5. Therefore, the Chamber is of an opinion that subsection 3 of § 11 of the LTA infringes subsection 1 of § 12 of the Constitution.

43. Section 32 of the Constitution protects proprietary rights as property, i.e. things, money as well as rights and claims that can be expressed in money (the judgment of the Supreme Court *en banc* of 17 June 2004 in case no. 3 2 1 143 03, point 18). Land tax means a public financial obligation that the state levies on a person's property (plot of land) (§§ 2 and 3 of the LTA). If a person is obliged to pay a tax on the land in their ownership, the person must waive a portion of their ownership in order to possess, use and dispose of another portion of their ownership. The size of the land tax is also influenced by the extent to which the tax subject enjoys the land tax incentive. The bigger the land tax incentive, the weaker the infringement of the fundamental right of ownership. Thus, the restriction of the land tax incentive compared to other persons is also an infringement of the fundamental right of ownership provided for in § 32 of the Constitution.

44. The protection zone of § 113 of the Constitution also covers all the financial obligations in public law (the judgment of the Constitutional Review Chamber of the Supreme Court of 12 October 2011 in case no. 3-4-1-15-11, point 19). According to the predominant case law of the Supreme Court, particularly the

following has been considered the purpose of § 113 of the Constitution: all financial obligations in public law are established by the acts of the *Riigikogu* (the judgment of the Supreme Court *en banc* of 22 December 2000 in case no. 3-4-1-10-00, points 20-25; the judgment of the Constitutional Review Chamber of the Supreme Court of 20 October 2009 in case no. 3-4-1-14-09, points 25-39; the judgment of 15 June 2007 in case no. 3-4-1-9-07, point 23). Section 113 of the Constitution provides for a special reservation of law in respect of the establishment of public obligations (the judgment of the Constitutional Review Chamber of the Supreme Court of 8 June 2010 in case no. 3-4-1-1-10, point 55). As in the present case the *Riigikogu* has regulated the land tax incentive by an act, there is no infringement of § 113 of the Constitution.

45. Therefore, the Chamber is of an opinion that in this case subsection 1 of § 12 of the Constitution in conjunction with § 32 of the Constitution is infringed.

III

46. Not every kind of different treatment is in conflict with subsection 1 of § 12 of the Constitution, but only such for which there is no justification. The fundamental right of equality and the free possession, use and disposal of property provided for in subsection 2 of § 32 of the Constitution can be restricted for any constitutional purpose (the judgment of the Supreme Court *en banc* of 7 June 2011 in case no. 3-4-1-12-10, point 31; the judgment of the Constitutional Review Chamber of 27 December 2011 in case no. 3-4-1-23-11, point 41; the judgment of 17 April 2012 in case no. 3-4-1-25-11, point 37).

46.1. The explanatory memorandum of the draft Land Tax Act Amendment Act Exempting Homeowners from Land Tax (explanatory memorandum 51 SE) does not explain why in the event of common ownership of an immovable the land tax exemption extends to co-owners only to the extent of 0.15 hectares (in low-density areas 2 hectares), while in the event of flat ownerships the land tax exemption extends to all flatowners to the extent of 0.15 hectares (in low-density areas 2 hectares).

46.2. In the opinion of the Chancellor of Justice, a legitimate purpose of the infringement is the accrual of revenue to local authorities. The Chamber shares the opinion of the Chancellor of Justice. As a result of the land tax incentive, the revenue base of local authorities in the form of revenue receivable from land tax will be reduced. The deficit must be covered with other, if necessary, state, funds. The Chamber also notes that the purpose of saving public funds is also in line with the Constitution (see, for instance, the judgment of the Constitutional Review Chamber of the Supreme Court of 27 December 2011 in case no. 3-4-1-23-11, point 59). Although land tax is a state tax, it accrues in full to the rural municipality or city budget (§ 6 of the LTA). According to explanatory memorandum 51 SE, in 2010 land tax accruals amounted to 802.8 million Estonian kroons, i.e. 51 million euros. This sum includes land tax on residential land in the amount of 26.7 million euros. This amounted to 7.9% of the tax revenue of cities and rural municipalities and 4.0% of their total revenue. According to explanatory memorandum 299 SE of the draft Land Tax Act Amendment Act Exempting Homeowners from Land Tax, the Land Tax Act and the Income Tax Act Amendment Act (explanatory memorandum 299 SE), the revenue that accrues from land tax to local authorities will decrease by approx. 13 million euros once the land tax exemption of homeowners is implemented. In order to cover the local authorities' loss of revenue from land tax due to the land tax exemption, the state will compensate the deficits in the budgets of local authorities by other means, for instance by increasing the rate of the income tax accruing to local authorities (see explanatory memorandum 299 SE). This, in turn, will reduce the revenue of the state in 2013 by approx. 10.5 million euros and in 2014 by approx. 13.3 million euros (explanatory memorandum 299 SE).

46.3. According to the Ministry of Finance, the purpose of the land tax incentive was to exempt flat ownerships from land tax as thus the administration of land tax will become easier. Land tax will not be imposed and no tax notice will be issued if the amount of tax is less than five euros (subsection 3 of § 7 of the LTA). Many flat ownerships do not exceed this tax limit. Thus, flat ownerships are exempt from land tax. According to the Chamber, the simplicity of the administration of land tax can be considered a legitimate purpose (see the judgment of the Constitutional Review Chamber of the Supreme Court of 27

December 2011 in case no. 3-4-1-23-11, point 60). The simplicity of the administration of land tax reveals itself particularly in how easy it is for an administrative authority to obtain, verify and process in any other manner the data that serve as a basis for the assessment of land tax.

IV

47. The different treatment of comparable subjects of land tax must be reasonable and relevant. To verify the reasonableness and relevance of different treatment, the purpose of the different treatment and the gravity of the caused different situation must be weighed (the judgment of the Constitutional Review Chamber of the Supreme Court of 30 September 2008 in case no. 3-4-1-8-08, point 32). The more the comparable groups differ in terms of substance, the more differently the Legislature may treat them.

48. As the object of land tax is land (§ 2 of the LTA), then, according to the general rule, the size of the tax exemption is related to the land, not to the number of the owners thereof. If land belongs to one owner, then they can use tax exemption to the extent of 1500 m2 (in low-density areas 2 hectares) (subsection 1 of § 11 of the LTA). The rights and obligations related to common ownership are divided between co-owners in proportion to the size of the share of their ownership (§ 75 of the LPA). A thing in common ownership may be transferred or encumbered only by agreement of all co-owners (§ 74 of the LPA). Therefore, the approach that land tax exemption is divided between co-owners is justified.

49. Subsection 3 of § 11 of the LTA provides an exception to the general rule as regards flat ownerships and flatowners. In principle, when granting land tax incentives, flatowners are treated similarly to sole owners of land.

50. Unlike the Administrative Court and the Chancellor of Justice, the Chamber is of an opinion that the relation of co-owners of an immovable and flatowners to the object of tax (plot of land) is not essentially identical.

50.1. A flat ownership as ownership of the physical share of a structure together with a legal share of a plot of land in common ownership is a separate object in commerce (subsections 1 and 3 of § 1 of the FOA). The legal order considers a flat ownership as a separate thing, an immovable (clause 3 of § 5^1 of the Land Register Act), not as a share of a thing (the second sentence of subsection 1 of § 1 of the FOA). A legal share of an immovable cannot be considered a separate thing. An independent thing in terms of law and a legal share of a thing do not necessarily need to be governed by the same rules.

50.2. The difference between a flat ownership and an immovable in common ownership is not limited only to the use of the physical shares of a structure, but it also appears in the connection between legal shares of a plot of land and the physical share. In the event of conventional common ownership there is no separate physical share. Legal shares of a plot of land can be disposed of freely (subsection 1 of § 73 of the LPA). However, in the event of a flat ownership the size and commerce of a legal share of a plot of land depend on the size and destiny of the physical share of the structure (subsection 3 of § 1 of the FOA). The aforesaid is also an aspect that influences the disposal and use of the land, not only the structure. Thus, the difference between common ownership of an immovable and a flat ownership cannot be considered irrelevant upon taxation of land use.

50.3. Although a multi-storey residential building may also be under common ownership and not differ functionally from a residential building that has been divided into flat ownerships, common ownership is often a shared home of co-owners and in addition to the structure the land surrounding it is also of significant importance. In those events co-owners may rather be considered similar to sole owners. Therefore, in the event of a flat ownership and common ownership the owners often need not be in similar positions. The aforesaid is also illustrated by the present case of two co-owners whose home is located on an immovable of approx. 23 000 m^2. The structure located on the immovable is not a block of flats, but a single-unit residential property owned by two owners. The equalisation of the appellant and the other co-owner

with flatowners would give them an unjustified advantage over sole owners of single units located on land of the same size because in such event the land tax of the sole owner would exceed the total land tax of co-owners.

51. Unlike a legal share of a plot of land under common ownership, a flat ownership as an independent thing may, in turn, be in common ownership of several persons. In such a situation the land tax incentive is divided between all co-owners of the flat. Co-owners of an immovable are treated similarly to those flatowners whose flat ownership is in common ownership.

52. If an immovable is in common ownership and there is a residential building on it, which corresponds functionally to a flat ownership, the co-owners have the possibility to avoid their less favourable treatment by dividing the immovable property ownership into flat ownerships (§§ 3-5 of the FOA). Thus, the intensity of the infringement is reduced by the co-owners' possibility to divide the residential building into flat ownerships. The Chamber shares the opinion of the Chancellor of Justice that holding a multi-storey residential building in common ownership cannot be disapproved of, but this does not change the fact that co-owners who are in essence in a similar position with flatowners can finish their less favourable treatment by their own acts. However, if it is not possible or practical to divide a residential building in common ownership into flat ownerships, for instance as it is a single-unit residential property, the equalisation thereof with residential buildings that have been divided into flat ownerships is not justified (see also point 50.3 of this judgment).

53. The present case concerns an immovable that belongs to two co-owners. The immovable is located in Tallinn and its size is 23 100 m^2. The land tax payable for 2013 was approx. 2331 euros. If there had been two flatowners under the same conditions, the land tax payable would have been approx. 2169 euros. Thus, in the latter event the difference between the incentives would be approx. 162 euros. As regards the appellant, the difference between the incentives arises, above all, from the unconventionally large size of the appellant's plot of land in a densely populated area. Multi-storey residential buildings in common ownership that are functionally equivalent to residential buildings that have been divided into flat ownerships are generally located on smaller plots of land.

54. In light of the above, the Chamber is of an opinion that the infringement of the appellant's fundamental rights cannot be deemed intensive.

55. The state is obliged to safeguard fundamental rights and incurring expenses from the state budget safeguards constitutional values (the judgment of the Supreme Court *en banc* of 12 July 2012 in case no. 3-4-1-6-12, point 166). In order for the state to function, it is necessary to ensure an environment, where the state budget revenue accrues as planned, since this fulfils the core functions of the state (the judgment of the Supreme Court *en b*anc of 12 July 2012 in case no. 3-4-1-6-12, point 167). To fulfil public law functions, both the state as well as local authorities must have a revenue base. By paying land tax, a homeowner contributes to the budget of the local authority on whose territory the homeowner resides and whose services the homeowner consumes. Land tax is revenue that local authorities use for the fulfilment of public functions. Thus, the accrual of revenue may be considered a weighty aim.

56. According to the explanatory memorandum of the draft Flat Ownerships and Flatowners Associations Act (462 SE), which is being read by the *Riigikogu*, there were approx. 21 400 immovables that were objects of flat ownerships and approx. 477 000 flat ownerships in Estonia in 2012. According to the Tax and Customs Board, approx. 500 000 land tax notices are issued a year. According to the information referred to in the opinion of the Ministry of Finance, for instance the size of the land belonging to blocks of flats in Tallinn does not exceed the limit value of 1500 m^2 per flatowner. If the Tax and Customs Board does not assess land tax or issue a tax notice to flatowners for a reason that the size of the land belonging to the flat ownership does not exceed 1500 m^2 (in low-density areas 2 hectares) per flatowner, this will in high probability reduce the need of the Tax and Customs Board to verify whether the amount of tax of the flatowner remains below 5 euros or not. Thus, in the event of larger blocks of flats, the administration of the land tax system is, in high probability, made easier by the fact that each flatowner has the right to tax

exemption to the extent of 1500 m^2 (in low-density areas 2 hectares).

57. Both the accrual of revenue as well as the simplicity of administration is also ensured if abuses, i.e. such activities of landowners that do not correspond to the purpose of the Land Tax Act, are precluded. If, in the event of common ownership, each co-owner could use the tax exemption to the extent of 1500 m2 (in low-density areas 2 hectares), this may open up an opportunity for the abuse of the tax exemption. Land in common ownership can be divided between an unlimited number of co-owners. If each legal share were accompanied by a full-scale tax exemption, this would make it possible to artificially reduce the tax liability by transferring an insignificant legal share of a larger immovable to a dummy who also registers the residential building located on the immovable as their place of residence. The threat would not concern only the plots of land that are currently in common ownership, but also those which are still in sole ownership. As the number of flat ownerships on one immovable cannot be unlimited, it is possible to grant a tax incentive per each flat without any threat of abuse and any administration difficulties related thereto.

58. Granting incentives is in compliance with ensuring the economic use of land if the land accommodates blocks of flats. A situation where the Legislature tries to treat more favourably the situations where more dwellings in independent commerce are located on the immovable cannot be disapproved of. It is difficult or even impossible to achieve complete uniform treatment when granting such an incentive. If co-owners of an immovable are treated in the same way as flatowners, the differentiation will transfer to other groups. For instance, the application of the flat ownership incentive to an immovable in common ownership may result in an unjustified different treatment between sole owners and co-owners of private houses (see point 50.3 of this judgment). Similarly, there would then be the problem of whether each co-owner of a co-owned flat should be entitled to the tax incentive to the extent of 1500 m^2 (in low-density areas 2 hectares) similarly to co-owners of residential buildings. However, in such an event the land tax of the sole owner of a flat would, in turn, be higher than the total land tax payable by the owners of a co-owned flat.

59. Therefore, the Chamber is of an opinion that the infringement of the fundamental rights cannot be considered arbitrary or unreasonable. Therefore, the Chamber dismisses the request of Tallinn Administrative Court.
