

NJORD LATVIA: The court refused the confiscation of the client's property to the police

Once again, NJORD's attorneys achieved to dismiss the court's proceedings on allegedly illicit proceeds regarding the client's vehicles and real estate.

In October 2019, the State Police of Latvia initiated a criminal proceeding following signs of the composition of the criminal offense – money laundering, related to the fact that several non-residents of Latvia in group of persons, by using a Latvian company, allegedly, legalised assets, allegedly, acquired by criminal means, on a large scale abroad. Within these criminal proceedings, a NJORD'S client - foreign citizen - the beneficial owner and board member of the Latvian company - was detained and arrested, as well as the property of the Latvian company (luxury class cars) and the real estate in Latvia belonging to the beneficial owner of the Latvian company were arrested.

NJORD succeeded in changing of security measure applied to the client - custody - to another security measure not related to deprivation of liberty.

In May 2022, the police investigator separated the proceedings on allegedly illicit proceeds from the criminal proceedings and transferred the case materials to the Economic Court. In her decision, the investigator stated that no specific predicate crime was identified, but it was alleged that it could have been related to tax evasion. The investigator asked the court to consider the property of the client and his Latvian company arrested in criminal proceedings as property obtained by criminal means and to confiscate it for the benefit of the state.

Both in pre-trial proceedings and during the trial the client and NJORD's attorneys submitted evidence that proved the legal source of the funds used to purchase the seized property.

On 3 October 2022, the Economic Court ruled to dismiss proceedings on property obtained by criminal means, initiated by the investigator. The court stated that it is the person directing the proceedings (i.e. the police investigator) who must initially prove that the property is likely to have a criminal rather than legal origin, and only then the person claiming the opposite (i.e. the owner of the property) has to prove the legal origin of the property. It means that there must be so much primary evidence in the case that the property is likely to have been obtained by criminal means. The court recognized that the totality of the evidence in the case does not give grounds to believe that the seized property may most likely have a criminal origin. In such circumstances, the process initiated by the investigator regarding the property obtained by criminal means must be dismissed.

The investigator filed a complaint against the decision of the Economic Court. NJORD's lawyers filed objections against the complaint and expressed the opinion that the decision of the first instance court is fair, legal and should be upheld.

On 6 December 2022, the Judicial Panel of Criminal Cases of the Riga Regional Court, having examined the investigator's complaint, rejected it and upheld the decision of the Economic Court. The decision of the Regional Court cannot be appealed. The arrest of the property of the client and his Latvian company is now cancelled. Currently, filing a claim against the state for compensation of damages caused to the client by unjustified seizure of his funds has also been considered.

Legal assistance to the client in the case was provided by NJORD's attorneys Eduard Vaisla, Dmitri Kolesnikov and Dmitri Nikolaenko.



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