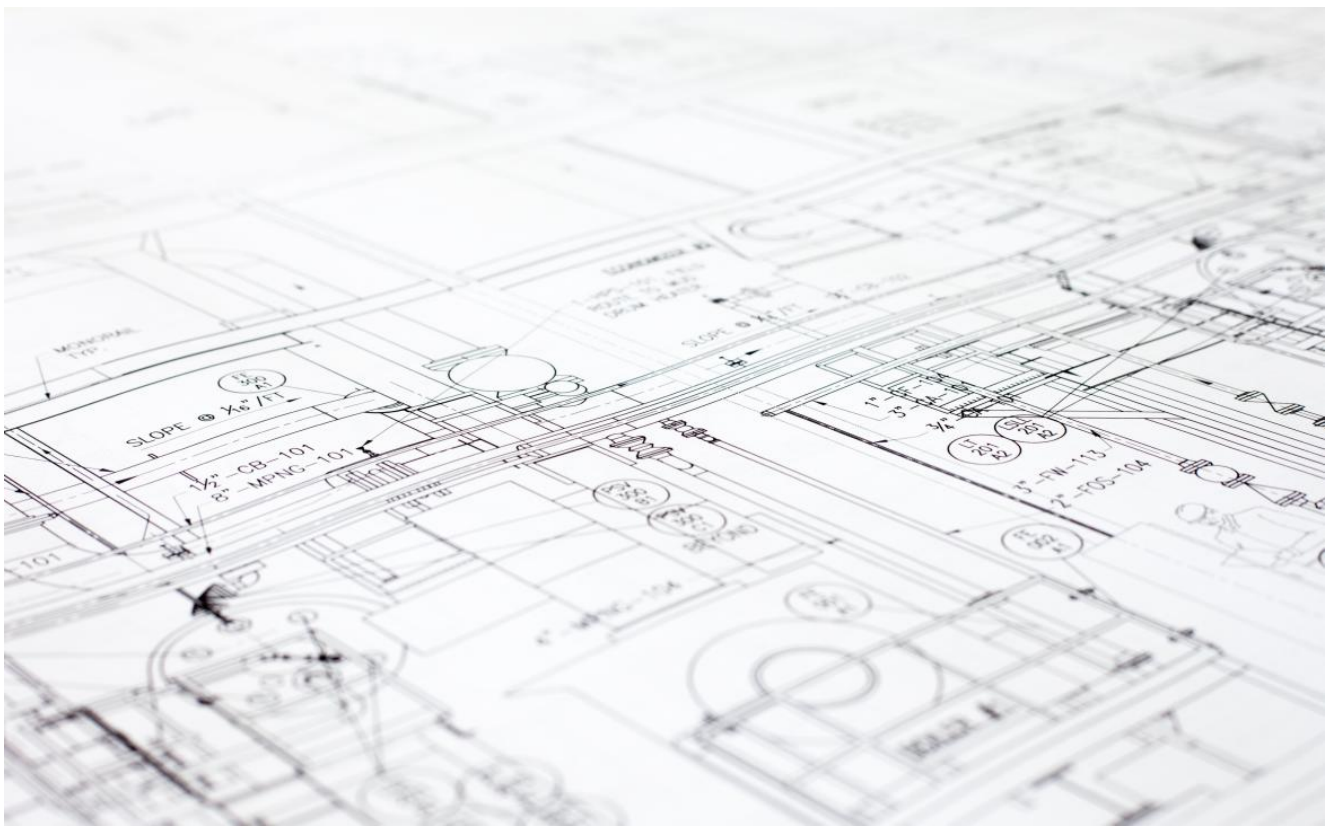


NJORD Estonia: Distinctions in the calculation of the deadline for appealing against the decision on the establishment of a spatial plan in the light of the recent judgement of the Supreme Court

On November 4, 2022, the Supreme Court clarified the calculation of the appeal period for the establishment of a spatial plan. The non-profit association MTÜ Päästame Tartu Keskpargi, created by the community, had applied to the Administrative Court for the protection of public interests. As known, based on a comprehensive plan adopted last autumn, the construction of a cultural centre near Tartu Central Park is being planned. MTÜ Päästame Tartu Keskpargi is opposing the partial building planned in the park's comprehensive plan.



Circumstances

The appeal for the cancellation of the comprehensive spatial plan was filed on 18.11.2021. The MTÜ Päästame Tartu Keskpargi, created to file a complaint, was registered in the commercial register on the same day.

The main difficulty of the dispute was whether the complaint had been filed within the time limits, given that:

1) the contested comprehensive plan was established on 07.10.2021 and

(2) under the law, the time limit for appeal is 30 days from the day on which the person became aware, or should have become aware, of the plans adoption.

The complaint has been filed within the time limit

The Supreme Court found no problem with meeting the appeal deadline. The Supreme Court noted that for an association representing the public interest, the time limit for appeal starts to run at the time when the public became aware, or should have become aware, of the act or proceeding. This is also the case if the non-profit organisation was established after the contested administrative act was issued. The Supreme Court has drawn attention to the requirement of the Planning Act, according to which the public must be informed about the adoption of the comprehensive plan in at least the following three sources: in a newspaper, in the Official Announcements and on the website of the local government organizing the preparation of the comprehensive plan. Notification in all the above sources shall ensure that the public is informed as widely as possible about the comprehensive plan. A combined effect of these notifications can be considered as the public has become aware of the comprehensive plan. Exceptions apply to the persons specified in the Act who must be informed personally of the adoption of the comprehensive plan.

In the case in question, the Supreme Court found that the 30-day appeal period for non-profit organisations representing the public interest starts to run from the publication of the notice on the adoption of the comprehensive plan from the last source noted in the Act. In the current case, the last source, where the city of Tartu published the notice was in the newspaper on 09.11.2021.

Thus, the public had to become aware of the adoption of the comprehensive plan only on 09.11.2021 and the appeal period for the public started to run from 10.11.2021 respectively.

As the complaint was filed within the deadline, the appeal concerning the construction of a cultural centre in the heart of the city of Tartu will continue to be heard in the Administrative Court.

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