



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

Constitutional Case No. 10/2021

LIMITATIONS TO THE RIGHT OF PROPERTY

SUCCESSFUL REFFERALS TO THE CONSTITUTIONAL COURT

LIMITATIONS TO THE RIGHT OF PROPERTY - text of the Criminal Code which provide for the confiscation of certain types of vehicles in favor of the state



- The Ombudsman addressed a request for establishing the unconstitutionality of Art. 234d (3), in the part “*regardless of its ownership*”, Art. 242 (8) in the part “*and where it is not owned by the perpetrator*”, Art. 280 (4) in the part “*or has been provided voluntarily thereto*” and Art. 281 (3) in the part “*or has been provided voluntarily*“ of the Criminal Code (CC).
- According to the Ombudsman, the texts contradict Art. 17, paragraphs 1 and 3 (the right to property and inheritance and the inviolability of private property) and Art. 56 (the right to protection of the citizen, when his rights or legal interests have been violated or endangered) and Art. 57 (the principle of irrevocability of fundamental rights) of the Constitution, in the context of the principle of the rule of law (Article 4 of the Basic Law) and the right to defense in court proceedings (Article 122 of the Basic Law).
- The Ombudsman points out that in the mentioned cases it is a matter of confiscation of property from persons who are not perpetrators of a crime. In criminal proceedings, confiscation of property may be carried out through the penalty of “confiscation” applicable only to the perpetrators of a crime. The confiscation of items is conditioned by the establishment that they belong to the perpetrator and that their confiscation is provided for in the special part of the Criminal Code. Deviation from this requirement can be made only in respect of items that, on the one hand, are the subject or means of the crime, but on the other had, their possession is prohibited.
- **Constitutional case No.10/2021 was instituted on the request.**
- **By Decision No.12 of 30 September 2021, the Constitutional Court accepts that the partially disputed provisions of the Criminal Code constitute constitutionally intolerable interference of the state in the right to private property of the persons and determine the existence of the contradiction alleged by the petitioner with Article 17, paragraphs 1 and 3 and with Articles 56 and 122 of the Constitution.**