



A case initiated with regard to norms that define a disabled person's right to a specially fitted vehicle and an allowance for the compensation of transport expenses

On 12 February 2018, the 2nd Panel of the Constitutional Court initiated case “On Compliance of Section 12 (1) of the Law “On State Social Allowances” and Annex 9 to the Cabinet Regulation of 23 December 2014 Nr. 805 “Regulations Regarding the Criteria, Time Periods and Procedures Determining Predictable Disability, Disability, and the Loss of Ability to Work “ with the First Sentence of Article 91 and Article 109 of the *Satversme* of the Republic of Latvia”.

The Contested Norms

Section 12 (1) of the law “On State Social Allowances”:

“An allowance for the compensation of transport expenses for disabled persons who have difficulties in movement shall be granted to a person to whom or to whose child a disablement has been specified in accordance with the procedures specified by law or other regulatory enactments and to whom an opinion has been issued regarding the determination of medical indications for the purchase of a specially fitted car and for the receipt of an allowance.”

Annex 9 to the Cabinet Regulation of 23 December 2014 Nr. 805 “Regulations Regarding the Criteria, Time Periods and Procedures Determining Predictable Disability, Disability, and the Loss of Ability to Work” (hereinafter – Regulation No. 805), which includes a list of those health disorders, which are the grounds for issuing an opinion regarding determining medical indications for purchase of a specially fitted car and compensation of transport expenses (hereinafter – the Opinion) to a particular person.

Norms of Higher Legal Force

The first sentence of Article 91 of the *Satversme*

“All human beings in Latvia shall be equal before the law and the courts.”

Article 109 of the *Satversme*:

“Everyone has the right to social security in old age, for work disability, for unemployment and in other cases as provided by law.”

The Facts

The case has been initiated with regard to an application by the Administrative District Court. The Administrative District Court is examining a case, in which the applicant request issuing an administrative act, i.e., an Opinion, that would determine his right to a specially fitted car and compensation for transport expenses. In the administrative procedure in the institution, the issuing of such to the applicant had been refused because he did not comply with the criteria defined in Annex 9 to the Regulation No. 805.

The Administrative District Court holds that the contested norms are incompatible with the first sentence of Article 91 and Article 109 of the *Satversme* because they envisage issuing of an Opinion and granting allowance to compensate for the transport expenses only to persons with mobility impairments.

The Administrative District Court holds that the persons, who, similarly to the applicant in the administrative case, are unable to use public transport due to mental health disorders, are in comparable situation with persons, who are unable to use it due to mobility impairment. Thus, by the contested norms, the State, allegedly, has allowed differential treatment, without objective and reasonable grounds, of persons with mental health disorders, and also has failed to implement due measures to ensure to these persons the possibility to exercise their social rights.

Legal Proceedings

The Constitutional Court has requested the *Saeima* and the Cabinet of Ministers to provide a reply on the facts of the case and legal substantiation by 12 April 2018.

The term for preparing the case is 12 July 2018. The Court shall decide upon the procedure and the date for hearing the case after the case has been prepared.

The press release was prepared with the aim to facilitate understanding of the actual facts of the case. It shall not be regarded as part of a ruling and is not binding to the Constitutional Court. The judgements, decisions and other

information regarding the Constitutional Court are available at the homepage of the Constitutional Court www.satv.tiesa.gov.lv.

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