



A case initiated with regard to terms of retirement before full retirement age

On 14 July 2016 the 2nd Panel of the Constitutional Court initiated the case “On Compliance of Section 11(4) of the Law “On State Pensions” with the First Sentence of Article 91 and Article 109 of the Satversme of the Republic of Latvia”.

The Contested Norm

Section 11(4) of the law “On State Pensions” provides: “A parent or guardian of a child who during the time period until a child has reached 18 years of age has taken care of five or more children for not less than eight years or of a child who has been recognised as a disabled child in accordance with the procedures laid down in laws and regulations for at least eight years has the right to an old-age pension five years before reaching the age laid down in Paragraph one of this Section, if the length of period of his or her insurance is not less than 25 years. A person who has been withdrawn the right of child care or custody right or who has been suspended from fulfilling the duties of a guardian due to negligent fulfilling of such duties does not have such a right.”

The 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 application was submitted by the Department of Administrative Cases of the Supreme Court, which is examining a case regarding granting old-age pensions on preferential terms (retiring before reaching full retirement age). The Court had received an application from a person, who had submitted an application to the State Social Insurance Agency (SSIA) requesting granting of a pension on preferential terms as to a person, who had cared for a disabled child. The person’s son had had his forearm amputated in 1986. Pursuant to norms that were in force at the time he was not granted the status of a disabled person. Regulation changed in 1990; however, less than eight years remained before the

child came of age. Thus, SSIA, on the basis of the contested norm, refuses granting the person an old-age pension on preferential terms.

The Department of Administrative Cases of the Supreme Court expresses the opinion that due to the contested norm receiving a pension on preferential terms is made dependable on the time when the child has been born. Thus, equal treatment is not ensured and a fair result is not achieved. The purpose of the legal norm, which defines the rights of parents of disabled children to retire before reaching full retirement age, is to compensate to parents for the time spent, their care, attention and emotional burden, taking into consideration that caring for a disable child imposes from parents constant increased psychological burden and restricts their possibilities to work and to socialize. The purpose of a norm like this should be applicable to all parents who have cared for a disable child or a child, whose health status conforms to disability, irrespectively of the time when the child has been born.

Thus, the Department of Administrative Cases of the Supreme Court holds that the contested norm is incompatible with the equality principle and restricts a person's right to social security.

Legal Proceedings

The Constitutional Court has requested the Saeima to submit to the Constitutional Court a written reply, presenting the facts of the case and legal substantiation, by 14 September 2016.

The term for preparing the case is 14 December 2016. The Court shall decide on the type of 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 the judgement and is not binding to the Constitutional Court. The judgements, decisions and other information regarding the Constitutional Court are available at the home page of the Constitutional Court www.satv.tiesa.gov.lv.

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