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**A case initiated with respect to a self-employed person's right to receive childcare benefit until the child reaches the age of one**

On 28 March 2017 the Constitutional Court initiated a case “On Compliance of Para 3 of Section 10<sup>4</sup>(1) of the law “On Maternity and Sickness Insurance” (in the wording that was in force from 1 January 2012 until 31 December 2013) with Article 110 of the *Satversme* of the Republic of Latvia”.

**Contested Norm**

Para 3 of Section 10<sup>4</sup>(1) of the law “On Maternity and Sickness Insurance” (in the wording that was in force from 1 January 2012 until 31 December 2013) provided that parents' benefit was granted and disbursed to a socially insured person, who took care of the child or several children born during one delivery in the age up to one year (to one of the parents of the child, one of the adoptive parents, in whose care and supervision the child had been transferred in accordance with a decision of the Orphan's Court, to a member of the foster family, who had concluded an agreement with the local government, guardian or another person, who in accordance with a decision of the Orphan's Court actually took care of the child), if this person was employed on the day of granting the benefit (is to be considered as an employee or a self-employed person in accordance with the law “On State Social Insurance”) and as a self-employed person did not earn income due to taking care of the child.

**Norm of Higher Legal Force**

Article 110 of the *Satversme*: “The State shall protect and support marriage – a union between a man and a woman, the family, the rights of parents and rights of the child. The State shall provide special support to disabled children, children left without parental care or who have suffered from violence.”

**Facts of the Case**

The case was initiated with regard to an application by a sworn advocate Sanita Bokta – Strautmane, which states that the applicant since 2003 had been earning income as a self-employed person.

In 2012 the Applicant's child was born. To keep her competitiveness in the market and continue cooperation with her existing clients, the Applicant resumed commercial activities as a self-employed person in July 2012. However, in this situation the contested norm, allegedly, did not provide for a possibility for the applicant to receive parents' benefit for caring for the child until the age of one, because she had been earning income by her professional activities as a self-employed person.

The Applicant holds that by this the State failed to perform the positive obligation that follows from Article 110 of the *Satversme* to set up and to maintain a system for providing social and economic protection to a family at least in a minimal scope.

It is noted in the application that violation of Article 110 of the *Satversme* had been eliminated, when the law of 6 November 2013 "Amendments to the law "On Maternity and Sickness Insurance"" entered into force. In accordance with these amendments a person, who earns income as a self-employed person and takes care of a child until the age of one, may receive the parent's benefit in a decreased amount.

### **Legal Proceedings**

The Constitutional Court has requested the *Saeima* to submit by 28 May 2017 to the Constitutional Court a written reply, presenting the facts of the case and legal substantiation.

The term for preparing the case is 28 August 2017. The Court shall decide on the type of procedure and the date for hearing the case after the case has been prepared.

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The press release was prepared with the aim to facilitate understanding cases heard by the Constitutional Court. 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 home page of the Constitutional Court [www.satv.tiesa.gov.lv](http://www.satv.tiesa.gov.lv).

### **Ketija Strazda**

Assistant to the President of the Constitutional Court

[Ketija.Strazda@satv.tiesa.gov.lv](mailto:Ketija.Strazda@satv.tiesa.gov.lv)

+ 371 67830737, + 371 26200580