**A case initiated with regard to the amount of remuneration to medical practitioners for extension of normal working hours**

On 10 May 2017, the 4th Panel of the Constitutional Court initiated the case “On Compliance of Section 531(7) of Medical Treatment Law with the First Sentence of Article 91 and Article 107 of the *Satversme* of the Republic of Latvia”.

**The Contested Norm**

Section 531(7) of Medical Treatment Law: “If an extension to the normal working hours of a medical practitioner has been applied, work remuneration for the working hours, which exceed the normal working hours specified in the Labour Law, shall be determined in proportion to the increase in working hours not less than in the amount of the specified hourly or daily wage rate but, if a lump-sum payment has been agreed upon, in accordance with the piece-work rate for the amount of work performed.”

**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 107 of the *Satversme*: “Every employed person has the right to receive, for work done, commensurate remuneration which shall not be less than the minimum wage established by the State, and has the right to weekly holidays and a paid annual vacation.”

**The Facts**

The case has been initiated on the basis of an application submitted by the Ombudsman of the Republic of Latvia. The applicant has established within the framework of an inspection case that the extended normal working hours are not commensurate to remuneration paid therefor. The applicant had requested the *Saeima* to introduce amendments to Medical Treatment Law to eliminate differential treatment of medical practitioners and ensure to them appropriate remuneration for working in conditions of extended normal working hours. The *Saeima* has failed to eliminate the deficiencies pointed out by the applicant.

The applicant holds that, essentially, the extended normal working hours of medical practitioners should be recognised as being overtime work. Pursuant to the contested norm, overtime work of medical practitioners is paid in accordance with the basic rate, which is contrary to the procedure established in the Labour Law, as well as the law On Remuneration of Officials and Employees of State and Local Government Authorities. Thus, the contested norm is said to restrict a person’s right to receive appropriate remuneration for overtime work, established in Article 107 of the *Satversme*.

The Applicant holds that medical practitioners, who work extended normal working hours, are in similar and comparable circumstances with employees, who do overtime work pursuant to the Labour Law. The contested norm is said to envisage differential treatment of medical practitioners and to be incompatible with the principle of proportionality, because remuneration to medical practitioners for overtime work is not equal to the amount of remuneration set in the Labour Law and the law On Remuneration of Officials and Employees of State and Local Government Authorities. Thus, the contested norm is said to violate also the principle of equality enshrined in the first sentence of Article 91 of the *Satversme*.

**Legal Proceedings**

The Constitutional Court has requested the *Saeima* to submit by 10 July 2017 to the Constitutional Court a written reply, presenting the facts of the case and legal substantiation.

The term for preparing the case is 10 October 2017. 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 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).

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