



A case initiated with respect to a norm that envisages paying to officials of the system of the Ministry of the Interior or the Prison Administration for performing duties of service at the time, when it was impossible to grant rest time, in accordance with the established hourly salary rate

On 26 July 2018, the 2nd Panel of the Constitutional Court initiated case “On Compliance of Para 1 of Section 14 (7¹) of the law “Remuneration of Officials of State and Local Government Authorities” with the first sentence of Article 91 of the *Satversme* of the Republic of Latvia”.

The Contested Norm

Para 1 of Section 14 (7¹) of the law “Remuneration of Officials of State and Local Government Authorities” :

“If the officials with special service ranks of the institutions of the system of the Ministry of the Interior and of the Prison Administration are compensated for performing the services of duties over the time set for performing the services of duty by granting rest time in accordance with the seventh part of this Section and it jeopardises the ability of the respective institution of the system of the Ministry of the Interior or the Prison Administration to ensure that duties of service are performed, the head of the institution or an official authorised by him may decide on payment for the respective time when the duties of service were performed. In such a case, the payment for performance of the duties of service over the time for performing duties of service, which cannot be compensated for by granting rest time shall be determined as follows (taking into account the number of overtime hours):

1) for the performance of service duties over the determined time for performance of service duties — at the time, when it was impossible to grant rest time to the official — in accordance with the hourly salary rate set for the official.”

The Norm 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.”

The Facts of the Case

The case was initiated with respect to an application by the Administrative District Court. The Administrative District Court is examining a case, in the framework of which an official with the special service rank of the Prison Administration requests imposing an obligation on the Prison Administration to compensate to him the losses caused by undisbursed additional payment for overtime work when the official had been prohibited from leaving the place where he performed his service duties during the lunch break.

The Administrative District Court holds that the contested norm is incompatible with the first sentence of Article 91 of the *Satversme* because, in general, regulatory enactments provide that the additional payment for overtime work is in the amount of 100 per cent of the salary determined for the person. Whereas, pursuant to the contested norm, the overtime work, which particular officials perform at the time, when it was impossible to grant rest time to them, must be paid for as for regular work time, i.e., without this additional payment.

The Administrative District Court holds that this differential treatment lacks a legitimate aim. Even if the protection of public security could be considered as being the legitimate aim, this differential treatment is not appropriate for reaching this aim since its sole effect, allegedly, is saving the state budget resources.

Legal Proceedings

The Constitutional Court has requested the *Saeima* to provide a reply on the facts of the case and legal substantiation by 26 September 2018.

The term for preparing the case is 26 December 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 cases heard by the Constitutional Court. 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 homepage of the Constitutional Court www.satv.tiesa.gov.lv.