



A case initiated with respect to norms that prohibit a child's guardian, who resides abroad, from receiving the state social child maintenance allowance

On 16 October 2018, the 2nd Panel of the Constitutional Court initiated the case “On Compliance of Section 4 (1) and Para 2 of Section 20 (1) of “Law on State Social Allowances”, insofar these Apply to Remuneration for Performing the Duties of a Guardian, with Article 91 and Article 109 of the *Satversme* of the Republic of Latvia”.

The Contested Norms

Section 4 (1) of “Law on State Social Allowances” provides that Latvian citizens, non-citizens, aliens and stateless persons to whom a personal identity number has been granted and who permanently reside in the territory of Latvia have the right to State social allowances.

Para 2 of Section 20 (1) of “Law on State Social Allowances” provides that the disbursement of the State social allowances disbursed at regular intervals are discontinued if the recipient of the allowance or the child for whom the allowance is disbursed departs from the Republic of Latvia for permanent residence in a foreign state.

The Norm of Higher Legal Force

Article 91 of the *Satversme*: “All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind.”

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 on the basis of an application by the Supreme Court. It is reviewing a case, which has been initiated on the basis of an application by a private person regarding revoking of a decision by the State Social Insurance Agency. On the basis of, *inter alia*, the contested norms, the Agency discontinued disbursement of the remuneration to a guardian residing abroad for performing the duties of a guardian and requested repayment of the overpaid allowance.

The Supreme Court holds that the contested norms are incompatible with Article 109 of the *Satversme*. I.e., the legislator, by adopting these norms, has not performed in full the positive obligation that follows from the aforementioned Article of the *Satversme* to provide social security to persons residing abroad. Likewise, the Court is of the opinion that the contested norms are incompatible also with the principle of equality enshrined in Article 91 of the *Satversme*.

Legal Proceedings

The Constitutional Court has requested the *Saeima* to provide a reply on the facts of the case and legal substantiation by 17 December 2018.

The term for preparing the case is 16 March 2019. 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.

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