



**A case initiated with respect to a norm that defines the persons to be socially insured
against unemployment**

On 14 July 2020, the 2nd Panel of the Constitutional Court initiated the case “On Compliance of Section 6 (5) of the Law “On State Social Insurance” with the First Sentence of Article 91 and Article 109 of the *Satversme* of the Republic of Latvia”.

The Contested Norm

Section 6 (5) of the law “On State Social Insurance”:

“In addition to the persons referred to in Paragraph one of this Section the following persons shall be subject to unemployment insurance:

- 1) (*deleted by the Law of 26 April 2007*);
- 2) persons who take care of a child who has not attained one and a half years of age and receive an allowance for child care;
- 3) persons who receiving a maternity, paternity or sickness benefit;
- 4) persons who receive an allowance for the care of an adopted child;
- 5) persons who are located in the respective foreign state in the status of the spouse of a soldier performing service duties, except for the cases where the soldier participates in an international operation, military training, manoeuvres or is on a mission;
- 6) persons who take care of a child who has not attained the age of one year or one and a half years, and receive a parental benefit;
- 7) persons whose spouse (who has been granted a diplomatic rank in accordance with the Diplomatic and Consular Service Law) performs diplomatic and consular service in foreign states and who stay in the respective foreign state as the spouse of the person performing diplomatic and consular service;
- 8) persons who receive an allowance for the fulfilment of the duties of a foster family;
- 9) persons who stay in the respective foreign state as the spouse of the Eurojust representative or the spouse of a liaison officer.”

The Norms of Higher Legal Force

The first sentence of Article 91 of the Satversme of the Republic of Latvia (hereafter – 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 case was initiated on the basis of an application by the Supreme Court. The Supreme Court is hearing an administrative case, which has been initiated on the basis of an application requesting issuing a favourable administrative act, by which the applicant requests granting of an unemployment benefit. Pursuant to the existing legal regulation, an employee is entitled to use the child-care leave even up the date when the child reaches the age of eight. However, during this leave, the employee is subject to insurance against unemployment only if the child has not yet reached the age of one year and a half.

The Supreme Court holds that the contested norm is incompatible with the first sentence of Article 91 of the *Satversme* and also is contrary to Article 109 of the *Satversme*. In adopting the contested norm, the legislator, allegedly, has not abided by the principle of legal equality, included in the first sentence of Article 91. In the Supreme Court’s view, a situation, where an employee, who chooses to use the child-care leave during the period when the child is older than one year and a half, is not insured against unemployment, is incompatible with the principle of legal equality. Thus, the right to social security in the case of unemployment, guaranteed in Article 109 of the *Satversme*, is denied.

The Legal Proceedings

The Constitutional Court has requested the *Saeima* to submit a written reply on the facts of the case and the legal reasoning **by 14 September 2020**.

The term for preparing the case is **14 December 2020**. The Court will decide on the type of procedure and the date for hearing the case after it 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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