THE CONSTITUTIONAL COURT OF THE REPUBLIC OF LATVIA

JUDGEMENT
on Behalf of the Republic of Latvia
in Case No. 2016-31-01
Riga, 26 October 2017

The Constitutional Court of the Republic of Latvia comprised of: chairperson of the court hearing Ineta Ziemele, Justices Artūrs Kučs, Gunārs Kusiņš, Aldis Laviņš, Sanita Osipova and Daiga Rezevska,

with the secretary of the court hearing Marija Paula Pēce,

with the participation of the authorised representative of the Applicant – the Council for the Judiciary – Solvita Harbacēviča

and of the institution, which issued the contested act – the *Saeima* of the Republic of Latvia – Ilze Tralmaka,

on the basis of Article 85 of the *Satversme* of the Republic of Latvia and Para 1 of Section 16, Para 12 of Section 17 (2) and Section 28 of the Constitutional Court Law,

on 26 September 2017, examined in an open court hearing the case

"On Compliance of Section 4(9) and Section 6^1 (1) of "Law on Remuneration of Officials and Employees of State and Local Government Authorities" with Article 83 and Article 107 of the *Satversme* of the Republic of Latvia".

The Facts

1. Until 1 January 2011, judges' remuneration was defined in the law "On Judicial Power". The monthly salary of a district (municipal) court judge was

calculated by applying the coefficient of 4.5 to the official average gross salary of employees in the state, as published in the official statistical report, whereas the salary of higher-level judges was calculated on the basis of the salary of a district (municipal) court judge. In addition to that additional payments and bonuses were envisaged for judges.

1.1. On 18 January 2010, the Constitutional Court passed the judgement in case No. 2009-11-01, recognising the norms of the Transitional Provisions of the law "On Judicial Power", which envisaged using the average monthly salary in the state in a year for calculating monthly salaries of judges and judges of the Land Register, as being incompatible with Article 83 of the *Satversme* of the Republic of Latvia (hereinafter – the *Satversme*).

Whereas on 22 June 2010, the Constitutional Court passed the judgment in case No. 2009-111-01, recognising the norms of the Transitional Provision of the law "On Judicial Power", which envisaged disbursing remuneration to judges in a decreased amount for a short period of time, as being compatible with Article 1, Article 83 and Article 107 of the *Satversme*, if starting with 1 January 2011 remuneration would be set and disbursed in compliance with the Constitutional Court's judgement of 18 January 2010.

1.2. At the end of 2010, the *Saeima* developed a new system of judges' remuneration, linking the monthly salary of a judge to the head of a legal structural unit of a state direct administration institution or the maximum amount of the monthly salary of the 12th group of salaries. It was envisaged that the monthly salary of a district (municipal) court judge, upon commencing performance of the duties of office, would correspond to the maximum amount of the monthly salary of the 12th group of salaries, whereas the monthly salary for judges of different levels had to be set by applying a respective coefficient from 1.1 to 2.62. Additionally, additional payments to judges for their qualification rating were envisaged in the amount of 7 to 35 per cent from the monthly salary.

The new system of remuneration was implemented by drafting and, on 16 December 2010 adopting amendments to a number of laws – the law "On Judicial Power", the Prosecution Office Law, the Constitutional Court Law, "Law on Remuneration of Officials and Employees of State and Local Government Authorities" (hereinafter – the Remuneration Law), and it became operative on

1 January 2011. By these amendments, *inter alia,* Section 4 (9) and Section 6^1 were added to the Remuneration Law (hereinafter jointly – the contested norms). Section 4 (9) of the Remuneration Law provides:

"The monthly salary of a judge shall be determined by linking it to the monthly salary of a highly qualified lawyer of state direct administration institutions, applying a respective coefficient. The salary of a prosecutor shall be determined by linking it to the monthly salary of a judge of a district (municipal) court, applying a respective coefficient."

Whereas Section 6^1 (1) of the Remuneration Law provides:

"The monthly salary of a judge of a district (municipal) court shall be determined by equalling it to the maximum amount of a head of legal structural unit at a state direct administration institution (the 12^{th} group of monthly salaries) pursuant to Annex 3 to this Law."

1.3. On 6 May 2011, the Constitutional Court initiated case No. 2011-10-01 on the compliance with the *Satversme* of a number of norms in the Remuneration Law, which constituted the remuneration system for judges and prosecutors. The Constitutional Court, having found that the contested norms did not infringe upon the applicants' right established in Article 107 of the *Satversme* to receive remuneration that was commensurate for the work done, on 28 March 2012, adopted the decision on terminating legal proceedings in case No. 2011-10-01. The Constitutional Court noted in the aforementioned decision that the substantiation of the constitutional complaint pointed to problems in the remuneration system and that the legislator also had repeatedly admitted that the new system needed improvements. The Constitutional Court in its decision noted that the most effective way for eliminating problems in the remuneration system would be cooperation between the legislator and the Council of the Judiciary.

1.4. On 1 August 2011, the law of 16 June 2011 "Amendments to the Law on Remuneration of Officials and Employees of State and Local Government Authorities" (hereinafter – amendments of 16 June 2011) entered into force. These amendments excluded from the Remuneration Law the regulation that allowed granting to a judge monetary awards envisaged in this law in connection with important achievements (events), bonuses depending on the work outcomes, as well as a general additional payment for performing additional obligations in the amount

of up to 20 per cent of the monthly salary. At the same time additional payment to judges in the amount of 3 or 5 per cent of the monthly salary of a district (municipal) court judge for participation in the meeting of a self-governance institution of judges, additional payment in the amount of 3 per cent of the monthly salary of district (municipal) court judge for working during week-ends or on holidays in accordance with the work schedule of investigative judges (which could be substituted by time of rest), as well as additional payments in the amount of difference between monthly salaries for substituting particular judges.

By the amendments of 16 June 2011, Section 3 (7) of the Remuneration Law was amended, which, before the amendments entered into force, provided:

"State and municipal institutions, taking into account the development cycle of the national economy, abiding by the principle of solidarity and during the period of economic growth may review the remuneration, increasing it, but during recession decreasing it on solidarity basis. The remuneration defined for officials (employees) in regulatory enactments is reviewed by examining the economic situation in the state (changes in the gross domestic product, changes in productivity, inflation, deflation) and taking into consideration other justified criteria. A uniform approach shall be applied to reviewing remuneration by both state and local government institutions."

By the amendments of 16 June 2011, Section 3 (7) of the Remuneration Law was worded as follows:

"The state and local government institutions shall review the remuneration set for the officials (employees), taking into consideration the economic situation of the state, the principle of solidarity, as well as by examining the economic situation in the state (changes in the gross domestic product, changes in productivity, inflation, deflation) and other valid criteria."

1.5. On 1 January 2013, the law of 15 November 2012 "Amendments to the Law on Remuneration of Officials and Employees of State and Local Government Authorities" (hereinafter – Amendments of 15 November 2012) entered into force, which provided in Section 14 (1) of the Remuneration Law additional payments to officials and employees, whereas the maximum amount of the additional payments envisaged in Section 14 (12) as an incentives to most competent officials and employees (which could not be granted to certain officials, including judges) was increased from 20 to 30 per cent of the monthly salary.

The Council for the Judiciary, in providing its opinion on the aforementioned amendments, by its Decisions of 5 November 2012 No. 74 drew the *Saeima*'s attention, *inter alia*, to the fact that in adopting amendments to the Remuneration Law a balance should be ensured between the monthly salaries of lawyers of institutions and those of judges and that differential treatment of various state officials should be eliminated.

1.6. On 27 March 2013, the law of 28 February 2013 "Amendments to the Law on Remuneration of Officials and Employees of State and Local Government Authorities" (hereinafter – the Amendments of 28 February 2013) was adopted. By the Amendments of 28 February 2013 in connection with substituting the system of judges' qualification ratings with the assessment of judges' professional performance, the additional payments for qualification rating that previously were envisaged for judges, were replaced by additional payments for the length of service, without changing the amount in per cent and the time of service after this additional payment was granted to a judge or its amount in per cent was increased.

The Council for the Judiciary by its Decision of 18 February 2013 No. 16 presented to the *Saeima* its opinion on the aforementioned amendments, drawing attention to the fact that balance was not ensured between the monthly salaries of lawyers of institutions and those of judges and that differential treatment of various state officials was not eliminated. The Council for the Judiciary underscored that different principles were used to determine the remuneration in public administration and remuneration to judges and, thus, the principle of equality was violated. Moreover, the amount of remuneration of judges and prosecutors had not been reviewed, although remuneration of employees of public administration had changed, in particular, in the regulation on the amount of bonuses and additional payments. The Council for the Judiciary expressed the opinion that, by envisaging different possibilities to receive bonuses and additional payments, the initial relation of remuneration of judges and of employees of public administration had changed and at the moment of adopting the decisions the existing remuneration system did not ensure the actual value of judges' and prosecutors' salary. Moreover, Section 3 (7) of the Remuneration Law, after being amended, did not envisage reviewing the amount of judges' and prosecutors' remuneration. The Council for the Judiciary also noted that the amount of judges' and prosecutors' remuneration had been significantly

influenced by the fact that with the introduction of the new remuneration system the scope of social guarantees for judges had been decreased.

1.7. On 29 November 2014, the law of 30 October 2014 "Amendments to the Law on Remuneration of Officials and Employees of State and Local Government Authorities" (hereinafter – the Amendments of 30 October 2014). By the Amendments of 30 October 2014 the maximum amount of the additional payment that, in accordance with Section 14 (12) of the Remuneration Law could be granted as an incentive to the most competent officials or employees of an institution, was increased from 30 per cent to 40 per cent of the monthly salary. Whereas the maximum amount of the total sum of additional payments defined in Section 14 (13) of the Remuneration Law was increased from 50 to 60 per cent of the monthly salary.

1.8. On 9 March 2015, the Council for the Judiciary adopted Decision No. 33, finding that the amendments introduced to the Remuneration Law since 2010 had increased even more the difference between the remuneration of judges and that of employees of public administration, that the balance between the remuneration of a lawyer of the executive power and the judges' remuneration had been distorted and that the remuneration set for judges was incompatible with the principle of judges' independence. By this Decision, the Council for the Judiciary called upon the legislator and the executive power to eliminate the situation that had evolved by introducing appropriate amendments into regulatory enactments and by involving the Council for the Judiciary in the process of drafting these amendments. The Council for the Judiciary asked the legislator to eliminate the problems in the system of judges' remuneration also in the letter of 17 March 2015 No. 10-1/1-581nos addressed to the chairmen of several committees of the *Saeima* and the letter of 17 March 2015 No. 10-1/2-580nos addressed to the Prime Minister, the Minister for Finances and the Minister for Justice.

In 2015, the Ministry of Justice, responding to the Council's for the Judiciary appeal, organised several meetings of experts to discuss possible solutions to improve the system of judges' and prosecutors' remuneration. These meetings were attended by representatives of the Ministry of Finances, the Prosecutor's General Office, the Latvian Judges 'Association, the Latvian Association of Administrative Judges, the Court Administration, the Supreme Court, and of the Council for the Judiciary.

1.9. By the law of 15 September 2016 "Amendments to the Law on Remuneration of Officials and Employees of State and Local Government Authorities" (hereinafter – the Amendments of 15 September 2016), which entered into force on 4 October 2016, Section 13^4 was added to the Remuneration Law, which provided that "The amount of the monthly salary of officials (employees) of the State Revenue Service and the procedure for determining it shall be established by the Cabinet in accordance with Annex 4 to this Law," and, respectively, also Annex 4, where with respect to the officials and employees of the State Revenue Service larger maximum amounts of monthly salaries were determined for all groups of monthly salaries. Thus, for officials and employees of the State Revenue Service the maximum amount of monthly salary in the 12^{th} group of monthly salaries was defined as 2200 euros.

Moreover, with the Amendments of 15 September 2016, the eleventh part was added to Section 15 of the Remuneration Law, envisaging the possibility to grant to officials and employees, except some categories of officials and employees (including judges), a special additional payment for ensuring functions that are essential for the institution and for implementing aims of strategic importance. This special additional payment may be granted in the amount of 100 per cent of the monthly salary; however, the amount of the monthly salary together with this special additional payment may not exceed the monthly salary set for the Prime Minister.

2. The Applicant – the Council for the Judiciary (hereinafter – the Applicant) – holds that the contested norms are incompatible with Article 83 and Article 107 of the *Satversme*.

The Applicant notes that judges' right to receive remuneration that is commensurate to the functions and tasks that they fulfil follow from Article 107 of the *Satversme* and that this right can be ensured only if all positions in the state service are assessed according to the aforementioned criteria and logically arranged within the system of positions. This had been the initial aim of the Remuneration Law. Previously, the Constitutional Court had recognised that the State had the obligation to set such remuneration for judges that would be compatible with a judge's status, functions and responsibility. The legislator, accordingly, has the obligation to ensure that judges' remuneration would remain compatible with the

Satversme, irrespectively of amendments to regulatory enactments and social changes.

The contested norms equal a judge's position, in terms of remuneration, with the head of a legal structural unit of an institution of direct public administration. However, first, in relating these positions, the differences in the functions, status and responsibility of a judge and a head of a legal structural unit had not been taken into consideration. For example, a judge adopts the final rulings and assumes responsibility thereof, contrary to this, the head of a legal structural unit usually does not have the right to issue administrative acts on behalf of the institution, and, even if he were granted such rights, it would be possible to appeal against these administrative acts in a higher standing institution. Secondly, the fact that the remuneration of the head of a legal structural unit of in an institution of direct public administration depends on the work outcome has not been taken into consideration – the Remuneration Law provides for these officials additional payments, bonuses and monetary awards, whereas a judge's remuneration does not depend upon his work outcome. The information collected by the Council for the Judiciary shows that higher monthly salary groups – 13th, 14th and even 16th (the law allows setting up to the 16th group of monthly salaries) – have been set for the heads of structural units in a number of ministries. Moreover, the possibilities of combining offices are restricted to a judge, whereas such restrictions have not been imposed on officials working in public administration.

The Applicant holds that such a system of judges' remuneration prohibits from attracting the best candidates for a judge's office and does not provide incentives for heads of legal structural units in direct administration institutions to strive for a higher step in their career – the office of a judge, because, actually, a judge's remuneration is lower.

It is alleged that since the adoption of the Remuneration Law, the *Saeima* has significantly derogated from the system of the law, which initially had been logical and functionally just. The rule on a uniform approach to setting remuneration in state and local government institutions had been deleted from Section 3 (7) of the Remuneration Law, by referring to the inappropriate level of remuneration and inability to attract to the vacant positions appropriate candidates due to low

remuneration, by amendments to the Remuneration Law the public administration has been allowed, in case of necessity, to increase remuneration for certain positions.

The Remuneration Law envisages a number of systems for maintaining the actual value of remuneration. The amount of judges' remuneration must be determined on the basis of a law, whereas for particular public officials it depends on the average monthly salary in the state or remuneration of employees in the financial sector. Thus, already since 2013, the remuneration of judges during their term in office had actually been decreased. The judges' remuneration had not been changed also after amendments had been introduced to the Remuneration Law, by which the norms on granting bonuses and monetary awards to judges had been deleted, and amendments by which the right to grant additional payments to employees of public administration had been broadened and a higher level of maximum monthly salary had been envisaged for the officials and employees of the State Revenue Service.

It is maintained that these circumstances prove that the *Saeima* has not complied with the rules on remuneration for the persons in public service, including judges, and the contested norms have become incompatible with Article 107 of the *Satversme*. This incompatibility is partially manifested also as the legislator's failure to act - failure to adjust the system of judges' remuneration to the changes in the economic situation and legal regulation.

Protection of a judge's remuneration is said to be one of the guarantees for a judge's independence and therefore the protection of a judge's remuneration should be examined in the context of Article 83 of the *Satversme*. Protection of a judge's remuneration is said to mean not only that a judge's remuneration is established by the law and is not decreased during his term in office but also protection against the decrease of the actual value of a judge's remuneration due to the increase of remuneration to other officials in public service or social changes. Protection of a judge's remuneration is said to be manifested not only by correct comparison of persons in public service but also by application of an appropriate mechanism that ensures that remuneration is reviewed if social conditions within the state change.

In view of the changes in the gross domestic product and in the amount of the average monthly remuneration for work, as well as other social changes since 2011, it can be established that the State has failed to act in order to protect judges' remuneration. By envisaging the protection of remuneration of other officials in

public service, the level of judges' remuneration had been decreased even more. Comparison of judges' remuneration to the remuneration of officials in public service shows that judges' remuneration can no longer be recognised as being appropriate. The Applicant holds that, thus, the guarantees of judges' independence had been restricted disproportionately and the principle of judges' independence had been violated.

At the court hearing, the Applicant underscored, additionally, that in setting remuneration for judges and remuneration in the public service, different principles should be be complied with, and therefore the remuneration established in the public administration could be used for comparison but the coupling of the remuneration of judges and that of officials in public administration could not be used. Moreover, the legislator has not envisaged a mechanism for retaining the actual value of judges' remuneration.

3. The institution, which issued the contested act, – the *Saeima* – requests recognising the contested norms as being compatible with Article 83 and Article 107 of the *Satversme*.

In its written reply, the *Saeima*, first of all, notes that the contested norms partially regulate the procedure for setting remuneration both for judges and prosecutors. However, since the application by the Council of the Judiciary pertains only to the judges' remuneration, the *Saeima* provides substantiation regarding compliance of the contested norms with Article 83 and Article 107 of the *Satversme* only insofar these apply to the right of judges to receive appropriate remuneration for work.

The *Saeima* notes that Article 83 and Article 107 of the *Satversme* do not establish an obligation to ensure to judges remuneration for work in a particular amount. Allegedly, it does not follow from Article 83 and Article 107 that some categories of officials in the executive power or the legislative power could not receive remuneration that would be higher than that of judges, in particular, in the initial stage of a judge's career. However, a judge's remuneration, which is to be understood not only as the monthly salary but also as additional payments, vacations and social guarantees, should ensure to a judge such economic independence that

would, to the extent possible, eliminate corruption risks and other risks of financial pressure in adjudication.

Pursuant to the contested norms, a judge's monthly salary, upon entering the office, is 1647 euros. Moreover, Section 3 (7) of the Remuneration Law envisages reviewing of in, taking into consideration the economic situation in the state and other valid criteria. Depending upon the court instance or a judge's functions of a district (municipal) court, a certain coefficient is applied and, as the result, the monthly salaries of higher level conform with to higher groups of monthly salaries. Special additional payments in the amount from 7 to 35 per cent have been defined for judges, depending upon the length of service. A judge also has a right to additional payments for performing particular additional duties, to the annual vacation, the length of which is increased every five years, as well as to the service pension. In the decision by the Constitutional Court of 28 March 2012, this system of judges' remuneration, in particular, the linking of judges' remuneration to the maximum amount of the monthly salary of the head of a legal structural unit in a direct administration institution had been recognised as being compatible with Article 1 and Article 83 of the *Satversme.*

Amendments to the Remuneration Law had given to state institutions the right to use more effectively the resources granted to them, taking into consideration the contribution by highly qualified employees to the work of the institution; however, general increase of remuneration had not been envisaged, neither in the State Revenue Service nor in other state or local government institutions. The *Saeima* underscores that the remuneration set for judges has not been actually decreased.

Allegedly, Amendments of 15 September 2016 were adopted because the legislator had found that the functions and responsibility of the State Revenue Service and the head of this institution were not commensurate with the remuneration that was offered and therefore it had been impossible to attract to this position high-level specialists. Whereas the possibility to grant to an official or an employee the special additional payment in the amount of 100 per cent of the monthly salary had been established to allow institutions to combat the flow of high-level specialist away from the public administration.

The Applicant has contested compliance of the system of judges' remuneration with Article 83 of the *Satversme* only in connection with the principle of judges'

independence. This principle should be differentiated from other factors that influence a judge's remuneration, for example, protecting a court's authority, the need to ensure that highly qualified and professional judges are attracted, and other factors. Therefore, in the particular case it should be assessed, whether a judge's remuneration ensures to him independence in the administration of justice, i.e., decreases the risk of corruption or another kind of financial pressure.

It is alleged that the right to demand remuneration of a certain amount does not follow from Article 107 of the *Satversme*. However, the Constitutional Court has found that the right defined in Article 107 of the *Satversme* to receive remuneration that is commensurate for the work done with respect to judges should be examined in interconnection also with Article 83 of the *Satversme*, which comprises the prohibition to decrease a judge's remuneration during his term in office and protects the actual value of a judge's remuneration. However, it is alleged that this prohibition does not mean that any action by the legislator that might have adverse impact upon a judge's remuneration would be prohibited.

The contested norms, allegedly, do not envisage decrease in the judges' remuneration, and, likewise, this does not follow from the amendments to the Remuneration Law either. It is essential that the contested norms define only the minimum amount of a judge's monthly salary and that a judge, who begins performing his duties of office, is equalled to such a head of a legal structural unit, whose monthly salary has been set in the maximum admissible amount. Moreover, for judges, in difference to employees in the public service, the increase in remuneration is predictable and mandatory.

The *Saeima* notes that it had been established in the study by the European Commission for the Efficiency of Justice of the Council of Europe in 2016 of the effectiveness and quality of the judicial and justice systems of the European states that, in 2014, Latvia, as regards the relation between a judge's remuneration in the initial stage of his career and the average remuneration in the state, had been equal or even better to other Member States of the Council of Europe. The average monthly salary in the state has not increased significantly and the judges still receive remuneration that should ensure to them sufficient financial independence.

Allegedly, the Remuneration Law envisages strict restrictions on granting general and special additional payments and bonuses. In the long-term, officials and

employees may not expect regular and automatic additional payments. Moreover, the *Saeima* underscores that institutions had not been granted additional resources for disbursing additional payments and bonuses.

The *Saeima* holds that the system of remuneration that was created in 2011 and is still valid today guarantees to judges sufficient financial independence and security and such level of remuneration that decreases, to the extent possible, corruption risk. Moreover, it is alleged that a judge's remuneration duly reflects both his status in society (in comparison to the average remuneration in the state and generally within the public administration) and in comparison with the status of a head of a legal structural unit in an institution of direct administration. Hence, the contested norms are said to provide for an adequate relation of judges' remuneration with the remuneration of the head of a legal structural unit in an institution of direct administration. Therefore, the contested norms, allegedly, envisage judges' remuneration in an adequate amount compared to the remuneration of a head of legal structural unit in an institution of direct administration and ensures due independence of a judge.

Although currently the system of judges' remuneration does not jeopardise judges' independence, the Ministry of Justice, in cooperation with the Council for the Judiciary, continues work aimed at improving the system of judges' remuneration, envisaging, *inter alia*, decoupling judges' monthly salary from the remuneration of civil servants and bringing a judge's remuneration to the level of remuneration paid to the heads of legal services in institutions of executive power.

At the court hearing, the representative of the *Saeima* noted additionally that in the particular case the Council for the Judiciary had not objected against the amount of remuneration *per se* but only against disproportionality of the judges' remuneration compared to that of employees in public administration. This disproportionality, in turn, had been causes by inappropriate application of the norms of the Remuneration Law. If additional payments, bonuses and monetary awards were paid in public administration in compliance with the purpose thereof, the balance between the level of remuneration set for judges and the employees of public administration would not be jeopardised. Whereas setting of higher groups of monthly salaries to the heads of structural units in institutions of direct public

administration is validated by the additional administrative and policy planning functions entrusted to them.

4. The summoned person – the Ministry of Justice – notes that within the framework of expert meetings that it had held in 2015 a number of proposals for resolving problems within the system of judges' remuneration had been examined. To ensure in the long-term effective system of remuneration for judges and prosecutors, the participants of the meeting had agreed on the following basic principles: 1) remuneration should be decoupled from the maximum amount of the monthly salary of the 12th group of monthly salaries, at the same time retaining the actual amount of remuneration; 2) coupling of the remuneration with the remuneration of employees in the civil service should be relinquished; 3) the formula for setting remuneration should be flexible (such that would be able to adjust to changes in the economic situation of the state); 4) remuneration should be appropriate and equal.

Three options for the solution had been prepared, in accordance with the aforementioned principles. All options envisage that the monthly salary of a judge of a district (municipal) court would be determined by applying a coefficient to the amount of the average monthly salary of the year before the last, rounded up to full euros, which has been published in the official statistical report by the Central Statistical Bureau. Each option envisages a different coefficient: option 1 – 4.31, bringing judges' remuneration closer to the level of remuneration of the heads of legal services in institutions of executive power who receive the highest remuneration in 2014; option 2 – 3.27, bringing judges' remuneration closer to the average remuneration of the heads of structural units in institutions of executive power in 2014; option 3 – 2.997, bringing judges' remuneration closer to the average remuneration of all heads of legal services in institutions of executive power in 2014.

In 2015, the options developed by experts had been presented to the Council for the Judiciary, which decided to support option 1, i.e., application of the coefficient 4.31, as well as gradual transfer to the new system of remuneration within three years, at the same time drawing the attention of responsible officials to the significant insufficiency of financing for the remuneration of employees of the court system.

In view of the impact by the solution supported by the Council for the Judiciary on the state budge, i.e., the need to increase more than twice the financing from the state budget to increase judges' remuneration, in 2016, the Minister for Justice had requested the Council for the Judiciary to take a complex assessment of the possibility to increase the remuneration of judges and employees of court (and the prosecutor's office) and requested supporting an alternative proposal – either envisaging increase of remuneration within the framework of groups of positions envisaged in the Remuneration Law and the Cabinet Regulation following from it, or applying a smaller coefficient.

The Council for the Judiciary had supported envisaging of financing to increase the remuneration for employees of the court and the prosecutor's office up the maximum amount within the framework of the existing legal regulation but did not revoke the decision on supporting re-examination of remuneration of the judges of district (municipal) courts, applying the coefficient of 4.31 in calculating judges' monthly salaries and gradual transition to the new system of remuneration within three years. In view of the above, the need to increase financing to increase the incommensurately low level of remuneration of court employees had been set as the priority for the budget of 2017. The Cabinet of Ministers, in turn, had supported the initiative of the Ministry of Justice regarding the increase in judges' remuneration, i.e., granting of additional financing in 2018 and 2019. It is planned to begin implementation of the reform of judges' remuneration in 2018 and amendments to regulatory enactments are being drafted to eliminate the systemic deficiencies that have been identified.

All of the above statements are said to prove that, in the recent years, the Ministry of Justice has channelled the discussion in a targeted way, by identifying deficiencies in the current system, has searched for solutions to improve the system of judges' remuneration. Thus, prior to the moment of submitting the opinion, a solution that was acceptable to the parties involved had been found and currently the work was on going to introduce it starting with 2018.

At the court hearing, the authorised representative of the Ministry of Justice underscored that the Ministry of Justice had actively cooperated with the Council for the Judiciary to facilitate reviewing the system of judges' remuneration.

5. The summoned person – Dzintars Rasnačs, the Minister for Justice, – stated at the court hearing that remuneration of judges and court employees had always been one of the priorities for the Ministry of Justice and provided explanations regarding the procedure for drafting amendments to the system of judges' remuneration. However, the Minister for Justice admitted that planning of judges' remuneration was like allocation of a surplus in the state budget revenue and this, in the Minister's opinion, did not ensure judges' independence.

6. The summoned person – the Ministry of Finance – expressed the opinion that the contested norms were compatible with Article 83 and Article 107 of the *Satversme*.

The inclusion of judges in the united system of remuneration was said to have a legitimate aim; i.e., balancing the remuneration of employees in the public sector and ensuring transparency and proportionality of employees' remuneration with respect to positions and vocations. The legislator had recognised this as being a long-term perspective, which should be aligned over the years, in view of the economic and fiscal situation in the state and by relating it to the possibilities of the state budget.

The restriction established in the Remuneration Law that the monthly salary could not exceed the monthly salary set for the Prime Minister applied to the officials and employees of the state institutions was not applied to judges, therefore the highest possible monthly salary of a judge in 2017 was 4315 euros.

Moreover, it is said to be important that a judge's monthly salary is linked to the maximum amount of a highly qualified lawyer of an institution of direct public administration, while institutions, within the framework of resources allocated to them, sometimes are unable to disburse the monthly salary to the heads of their structural units in this maximum amount. Whereas coefficients envisaged in the Remuneration Law are applied to a judge's monthly salary, as the result of which its amount exceeds the monthly salary of lawyers working in public administration. Moreover, the existing system of remuneration is said to ensure that in the case, if the salary of those performing the legal function in institutions of direct public administration is increased, the monthly salaries of judges are also increased. The Ministry of Finance holds that the system of judges' remuneration should be

examined in its totality, taking into consideration the additional payments and social guarantees envisaged for judges.

Additional payments and social guarantees have been envisaged for judges, similarly to officials working in public administration. Judges' remuneration is said to be commensurate with the responsibility of the office, complexity, workload and the position of a judge's office within the constitutional legal order, and, thus, the financial independence of judges is said to be guaranteed.

The Ministry of Finances emphasized that the additional payments envisaged in the Remuneration law were not of permanent nature. Officials (employees) cannot expect to receive additional payments permanently; moreover, if these are combined then the maximum amount therefor is limited. Additional resources have not been allocated to institutions for disbursing the special additional payments established by Amendments of 15 September 2016. Moreover, a strict procedure for granting and reviewing the aforementioned additional payment had been defined in the Remuneration Law.

Linking of judges' monthly salary to the average monthly salary in the state should not be supported, because for the part of employees in the fiscally important sector of public administration the expenditure for remuneration would increase automatically, in accordance with an algorithm integrated in the law and would not be defined by discretional decisions, examining the budgetary possibilities. Although such approach is used in some cases, it is said to apply only to some high-standing public officials.

The Ministry of Finances underscored that the issue of the remuneration system of judges and court employees was already being dealt with and that resources for increasing this remuneration had been allocated from 2017 to 2019. The current financing of the Supreme Court was said to be sufficient. The issue of judges' remuneration would be examined also within the procedure of drafting and examining the draft law "On the State Budget for 2018" and "On the Mid-term Budget Framework for 2018, 2019 and 2020".

At the court hearing, the authorised representative of the Ministry of Finance noted additionally that currently a new model of judges' remuneration was developed, which envisaged decoupling of judges' monthly salary from the 12th group of monthly salary and, taking into consideration the financing granted for

increasing judges' remuneration, setting a fixed amount of the basic monthly salary for judges. This proposal would be included in the current draft law on the state budget and the draft law on the mid-term budgetary framework.

7. The summoned person – the Prosecutor's General Office of the Republic of Latvia – notes that the application contests Section 4 (9) of the Remuneration Law only insofar it envisages linking the monthly salary of judges to the monthly salary of highly qualified lawyers in institutions of direct public administration, with a respective coefficient, whereas no reference is made in the application to the second sentence of Section 4 (9) of the Remuneration Law, which determines linking of the prosecutor's monthly salary to the monthly salary of a district (municipal) court judge, with a respective coefficient. In view of the fact that, in Latvia, the legislator, by envisaging linking of prosecutors' monthly salary to the monthly salary of judges and respecting the importance of the prosecutor's office, has decided to establish such financial security to prosecutors that, as to its scope and content, could be equalled to the financial security of judges, as well as considering the importance of prosecutors' independence, highlighted in international documents, the Prosecutor's General Office holds that the Constitutional Court should examine the legal norms referred to in the application also with respect to prosecutors' remuneration.

The Prosecutor's General Office notes that several amendments to the Remuneration Law had decreased the real value of judges' and prosecutors' remuneration and, thus, made it difficult to attract the best candidates for the prosecutor's office. Groups of monthly salaries that are higher than the 12th group of monthly salaries had been defined for some officials in the direct public administration. As strict restrictions on combining offices as to judges have not been set for officials of the direct public administration, and they have the right to receive remuneration also in other workplaces. Moreover, the Cabinet, on the basis of the Remuneration Law, had adopted regulation that significantly impacted the remuneration system of employees in investigative institutions, whereas the prosecutors' remuneration had not been reviewed.

At the court hearing, the authorised representative of the Prosecutor's General Office noted that the contested norms were incompatible with Article 83 and

Article 107 of the *Satversme* and emphasized, in addition to the aforementioned, that currently linking of the monthly salary to the average monthly salary in the state was envisaged for several groups of officials, which the representative of the Ministry of Finance had recognised as being inadmissible with respect to judges. The model of judges' remuneration offered by the Ministry of Justice was said to be unclear because it did not envisage particular provisions for reviewing judges' remuneration. Currently the remuneration for those positions, the monthly salary of which have been linked by the contested norms to the monthly salary of judges and prosecutors, actually had increased but the remuneration of judges and prosecutors had not been reviewed.

8. The summoned person – the Commission for Legal Environment Improvement – notes that the aim of the Remuneration Law had been to ensure that united requirements are met in setting remuneration for officials (employees) of state and local government institutions. However, due to amendments to the Remuneration Law, this balance is no longer ensured. It is said to be inadmissible that amendments to the law create internal contradictions, undermine its system or grant unfounded advantages to a person or a group of persons.

The Commission for Legal Environment Improvement agrees that the office of a judge cannot be related to offices of executive power. The office of a judge imposes the obligation to perform one of the functions of the state power and the judges' remuneration should be compatible with the status, obligations and responsibility of a judge and also should ensure a judge's financial independence. The opinion that automatic relating of a judge's office with the position of the head of a legal structural unit in an institution of direct public administration is not the only and the correct model could be upheld. At the same time, the Commission for Legal Environment Improvement upholds the opinion of the *Saeima* that the contested norms envisage and adequate proportion of judge' remuneration, duly ensures the independence of judges and are compatible with Article 83 and Article 107 of the *Satversme*. And yet, the Commission for Legal Environment Improvement reminds that the issues related to the strategy for the development of the court system are important.

9. The summoned person – the Latvian Collegium of Sworn Advocates – recognises the arguments of the Council for the Judiciary as being valid and notes that due to amendments to the Remuneration Law the actual value of judges' remuneration has been decreased and that the State has the obligation to set such remuneration for judges that is compatible with a judge's status, function and responsibility.

10. The summoned person – the Latvian Council of Sworn Notaries – notes that the issue of judges' remuneration is closely linked to the governance of the judicial power, the effectiveness of which influences not only the practical implementation of the principle of the rule of law but also the amount and use of the state budget resources to be allocated to courts. Allegedly, the system of judges' remuneration does not ensure remuneration that is compatible with a judge's office and responsibility, also, judges' remuneration is said to be lacking in incentives and being uncompetitive compared to judges' remuneration in European countries. The courts in Latvia are said to be unnecessarily burdened due to an ill-considered system of rights protection. The system of judges' remuneration should be changed within the framework of reform of the judicial power, and the resources for reforming the system of judges' remuneration should be found within the judicial power.

11. The summoned person – the Latvian Judges' Association – notes that judges already initially had objected to being included into the untied system of remuneration for employees of state and local government institutions because it did not ensure the independence of judges. Moreover, the Council for the Judiciary had repeatedly recognised that the actual value of judges' remuneration did not comply with the criteria defined in the Remuneration Law and had requested the legislator to eliminate the deficiencies that had been identified. Until now, this had not been done. Financial security and remuneration that is compatible with the office is said to be one of the corner stones of an independent judicial power. Due to amendments introduced into the Remuneration Law, which envisage derogations from the principles established in the law, as well as an increase in the average remuneration in the state, the remuneration that is ensured to the judges cannot be considered as such that would be due and appropriate for the status of a judge. Derogations from the

principles established in the Remuneration Law are said to leave a negative impact upon expectations that the remuneration is defined in accordance with uniform criteria and is fair with respect to all, who receive it in accordance with this law.

At the court hearing, the authorised representative of the Latvian Judges' Association underscored, additionally, that since 2011 the judges' remuneration had not increased alongside the remuneration of officials of other state and local government institutions but, quite to the contrary, the real value of judges' remuneration had decreased. The existing system of judges' remuneration, allegedly, does not ensure the competitiveness of judges' remuneration and retaining of its actual value. Judges remuneration is said to be based only on the legislator's political will but the legislator had not wanted to increase judges' remuneration. The Latvian Judges' Association does not uphold the statement made by the *Saeima* in its written reply that the Constitutional Court in its decision of 28 March 2010 had recognised the system of judges' remuneration as being compatible with Article 1 and Article 83 of the *Satversme* and is of the opinion that the matter of judges' remuneration should be resolved as soon as possible.

12. The summoned person – the sworn advocate Edgars Pastars – holds that the existing model of remuneration system does not ensure that its initial aims are reached; however, return to linking of the judges' monthly salaries to the average remuneration in the state would not ensure resolving the problem in the long-term, in view of the expected changes in economy and the priorities in the state budget expenditure.

The reason of drafting and adopting the contested norms had been, first, that the linking of judges' monthly salary to the average salary in the state had caused rapid increase and decrease in judges' monthly salary, depending on the economic system in the state, therefore, judges' salaries had to be constantly adjusted; secondly, the growth in the earnings of lawyers employed in public administration, which had been much faster compared to the increase in judges' earnings; thirdly, legal and economic circumstances that had been favourable for developing a new remuneration system. A number of other models for setting judges' remuneration had been considered in the process of legislation; however, due to the lack of political interest these had not gained support, and also the reasons for introducing the current system

had been, predominantly, political. Following the introduction of a number of amendments in the Remuneration Law, the initial aim of adopting the contested norms is no longer reached. The legislator had been unwilling to find a balance between the judicial power and the public administration. The legislator had been searching for and had found various ways of avoiding it.

It is alleged that the fact that judges' monthly salary is linked to a particular group of monthly salaries does not mean that the amount thereof is not linked to economic processes because Section 3 (7) of the Remuneration Law envisages reviewing remuneration in state and local government institutions by taking into consideration the economic situation in the state and the principle of solidarity; however, the decision to review the amount of monthly salaries is left at the legislator's discretion. In the application, the office of a judge and the position of the head of a legal structural unit in an institution of direct public administration have been compared as to creativity and responsibility required to perform the duties of office; however, this is said to be incorrect, rather the assessment should be made, whether the remuneration set for a judge is compatible with the status of a judge.

At the court hearing, E. Pastars noted additionally that the initial aim of the contested norms had been to ensure equivalent remuneration to judges and employees working in the public administration. Following amendments introduced to the Remuneration Law the contested norms, allegedly, no longer reach this aim. The law should provide for a system that ensures that the system of judges' remuneration is compatible with the economic situation. However, currently, following amendments to Section 3 (7) of this law, a system like this is not envisaged. The amount of remuneration for officials belonging to the 12^{th} group of monthly salaries is said to be disproportionately different from what had been envisaged by the legislator at the time when judges were included in the remuneration system because the government, in fact, had accepted that the monthly salaries are not increased but remuneration, predominantly, was paid in the variable part of remuneration for work. Since the legislator had ignored the initial aim of judges' remuneration and had not envisaged a mechanism for retaining the actual value of judges' remuneration, the system of judges' remuneration had become incompatible with the *Satversme*.

13. The authorised representative of **the summoned person – the Latvian Association of Administrative Judges –** underscored at the court hearing the criteria of judges' remuneration that had been established in the case law of the Constitutional Court and noted that because of the amount of remuneration it was difficult to attract the ablest candidates for the office of an administrative judge. Those former employees of institutions of public administration, who, nevertheless, become judges, suffer financial losses. The Latvian Association of Administrative Judges does not uphold the opinion that the additional payments to judges for the length of service compensate for the difference in remuneration to judges and employees working in public administration since the amount thereof is insufficient and significantly lower than the amount of additional payments disbursed in public administration.

The level of judges' remuneration is said to be uncompetitive and due to amendments to the Remuneration Law can no longer be equalled to the level of remuneration of higher-standing officials. Thus, the actual remuneration of judges had been decreased and there are no circumstances that could justify this decrease.

It is maintained that the system of judges' remuneration does not ensure that judges' remuneration is adjusted to the economic conditions of the state. In the course of seven years, the legislator had not reviewed the level of judges' remuneration, whereas the legislator's dialogue with the Council for the Judiciary is said to be formal and the Council's for the Judiciary opinion is said to be ignored. It is not clear, whether in the course of drafting the expected amendments to the Remuneration Law the proportionality of judges' remuneration with remuneration in comparable positions has been assessed.

14. At the court hearing, the authorised representative of **the summoned person – the Ombudsman of the Republic of Latvia –** admitted that, contrary to remuneration to officials and employees of public administration, judges' remuneration has not changed since 2011, although economic growth had been observed in the state. These circumstances should have served as signal for the legislator to act. However, since 2011, the legislator has not reviewed the regulation on judges' remuneration.

Amendments to the Remuneration Law, which envisaged other additional payments to officials and employees in public administration *per se* had not left an adverse impact on judges' remuneration; and problems are said to follow from the application of the Remuneration Law.

The assessment of the remuneration judges of a district (municipal) and regional court and its average value in interconnection with the remuneration trends discernable in public administration leads to the conclusion that currently an obvious disproportionality in judges' remuneration cannot be observed and that judges' remuneration complies with the provisions of Article 83 and Article 107 of the *Satversme*. However, there is an acute problem that the legislator should resolve in the very near future.

15. At the court hearing, the authorised representative of **the summoned person – the State Audit Office –** explained that an audit conducted by the State Audit Office had led to the conclusion that, in ministries, different groups of positions had been defined for similar positions without particular grounds. Significant differences have been identified also in financing and remuneration of employees of the central apparatuses of ministries. In the majority of cases, in all ministries, monthly salaries had been set close the maximum amount of the monthly salaries of the respective group of monthly salaries. Whereas the variable part of remuneration – additional payments, bonus, etc. – sometimes constituted even a half of the total amount of remuneration to the ministries' employees. Various kinds of additional payments are paid simultaneously to employees of ministries, and these additional payments are constant in nature, so that these, actually, turn into a guaranteed element in the remuneration for work that the employees reckon with. Moreover, additional payments are granted formally, without considering the purpose of granting thereof, without providing particular substantiation for granting or sometimes providing the character reference of an employee as the grounds. In some ministries, the granting of additional payments is not documented at all.

16. The summoned person – Aija Rieba – presented the results of the mathematical analysis of the amount of remuneration of judges, the heads of the legal structural units of ministries and the State Audit Office that she had conducted

personally. It follows from A. Riebas' research that over the last three years the remuneration to employees of public administration has significantly increased, although the legislator has not reviewed the maximum amount of monthly salaries of the 12th and higher groups of monthly salaries. In one-third of cases, additional payments in the amount of 20 to 25 per cent are granted to officials, for whom the 11th or the 12th group of monthly salaries has been set, but in two-thirds of cases the additional payment exceeds 30 per cent of the monthly salaries. In all ministries, the amount of monthly remuneration to the heads of legal structural units corresponds to the maximum amount of monthly salaries that is possible in the highest groups of monthly salaries – beginning with the 13th group of monthly salaries and even exceeding considerably the 16th group of monthly salaries.

The Findings

17. The Council for the Judiciary requests the Constitutional Court to review the compatibility of Section 4(9) and Section 6 [1] (1) of the Remuneration law with Article 83 and Article 107 of the *Satversme*. In fact, Section 4 (9) of the Remuneration Law consists of two different legal provisions, which determine the procedure for calculating the monthly salary for two different groups of officials. I.e., the first sentence of Section 4 (9) of the Remuneration Law defines the procedure for calculating the monthly salary of judges, whereas the second sentence – the procedure for calculating prosecutors' monthly salary.

The Applicant, in the substantiation of its application, and the *Saeima*, in its written reply, provide arguments regarding compliance of the contested norms with Article 83 and Article 107 of the *Satversme* only insofar the contested norms define the procedure for calculating the judges' monthly salary. The summoned person – the Prosecutor's General Office, in turn, in the written opinion submitted to the Constitutional Court, as well as the authorised representative of the Prosecutor's General Office at the court hearing (*see Case Materials, Vol. 6, p. 91*) noted that the compliance of the contested norms with Article 83 and Article 107 of the *Satversme* should be examined also insofar they defined the procedure for calculating the prosecutors' monthly salary.

Case No. 2017-13-01 already has been initiated at the Constitutional Court on the basis of an application by the Prosecutor General of the Republic of Latvia regarding compliance of the contested norms with Article 83 and Article 107 of the *Satversme*. It follows from the application by the Prosecutor General of the Republic of Latvia in case No. 2017-13-01 that the compliance of the contested norms with the *Satversme* is contested insofar they define the procedure for calculating the prosecutors' monthly salary.

In view of the fact that the compliance of the contested norms with the *Satversme*, insofar they define the procedure for calculating prosecutors' monthly salary, is to be examined in case No. 2017-13-01, moreover, in the framework of the case under examination, participants of the proceedings have provided arguments regarding compliance of the contested norms with Article 83 and Article 107 of the *Satversme* only insofar they define the procedure for calculating judges' monthly salary, in the case under examination, the Constitutional Court will not review the compliance of the second sentence of Section 4 (9) of the Remuneration Law with the *Satversme*.

Hence, in this case, the Constitutional Court will examine the compliance of the first sentence of Section 4 (9) and Section 6^1 (1) of the Remuneration law with Article 83 and Article 107 of the *Satversme*.

18. It follows from the content of the application and the arguments presented at the court hearing by the Applicant's representative that the Applicant holds as being incompatible with Article 83 and Article 107 of the *Satversme* both the regulation on the amount of judges' salaries as a whole and the linking of the judges' monthly salary with the maximum amount of the monthly salary of the 12^{th} group of monthly salaries, the relation between the remuneration to judges and officials in the public service.

18.1. Pursuant to the Remuneration Law, an official's remuneration consists of two parts – payment for work and social guarantees. The payment for work consists of the regular and the variable part. Usually, the regular payment for work to officials is only his monthly salary. The monthly salary ensures to the official a standard of living that the official can reckon with. Whereas the variable part of the payment for work includes additional payments, bonuses and monetary awards that the official

may receive for particular achievements in work, merits or special events. The variable part of the payment for work may depend upon the institutions' workload, the official's workload and the work outcomes, as well as other factors, which give to the heads of institution certain discretion in deciding on granting a additional payment and the amount thereof. Disbursement of the variable part of the payment for work depends on many factors, therefore an official, in general, cannot reckon with a certain amount of the variable part of the payment for work nor can be certain that he would receive the variable part of the payment for work.

The additional payment for the length of service that is defined in Section 15 (4) of the Remuneration Law, which is granted to a judge, who has received positive assessment in the regular evaluation, depending upon the period he has worked in a particular office, is a additional payment that is guaranteed in the law. It has been defined precisely in the law, on the basis of concrete and objective criteria, thus, any discretion in granting it is excluded. The additional payments of such nature belong to the regular part of the payment for work because an official can validly count on receiving it.

The case does not comprise a dispute on the additional payment for the length of service that is envisaged for judges, on the variable part of the payment for work envisaged to judges in the Remuneration Law (i.e., a additional payment for substituting other judges or for performing additional duties), on the social guarantees established for judges or the coefficient to be used in calculating the amount of monthly salaries for judges of different level. The case comprises a dispute on the monthly salary of a judge of a district (municipal) court, which has been equalled to the maximum amount of the monthly salary of the 12th group of monthly salaries and is to be used for calculating the monthly salaries of higher-level judges. Thus, the case comprises a dispute only on one element in the regular part of a judge's payment for work – the monthly salary that is linked to the maximum amount of the monthly salary of the head of a legal structural unit in an institution of direct public administration or of the 12th group of monthly salaries.

18.2. The principle for calculating a judge's monthly salary is defined in the first sentence of Section 4 (9) of the Remuneration Law – linking the monthly salary of a judge to the monthly salary of a highly qualified lawyer employed by an institution of direct public administration. Section 6^{1} of the Remuneration Law, in

turn, defines the procedure, in which this linkage is implemented. By Section 6^1 (1) of the Remuneration Law, the monthly salary of a judge of a district (municipal) court is directly equalled to the maximum amount of a particular position – the head of a legal structural unit in an institution of direct public administration or of the 12^{th} group of monthly salaries, which, pursuant to Annex 3 to the Remuneration Law is 1647 euros. Whereas pursuant to Section 6^1 (2) of the Remuneration Law, the amount of monthly salary for judges of higher level must be set by applying a certain coefficient to the monthly salary of a judge of a district (municipal) court. Since the basis for calculating the payment for work for any judge is the monthly salary of a judge of a district (municipal) court, also the monthly salary for judges of higher level is linked to the monthly salary of the head of a legal structural unit in an institution of direct public administration.

Thus, both contested norms, substantially, constitute a united system for calculating judges' monthly salary, which envisages that the monthly salary of all judges is linked to the maximum amount of the monthly salary of the head of a legal structural unit in an institution of direct public administration or of the 12^{th} group of monthly salaries.

Thus, the Constitutional Court will examine the contested norms as a united regulation on payment for judges' work.

19. Article 83 of the *Satversme* provides: "Judges shall be independent and subject only to the law". The independence of judges and courts that is established in this constitutional norm is one of the basic principles of a democratic state governed by the rule of law. The independence of the court and judges is not an end in itself but a tool for ensuring and consolidating democracy and the rule of law, as well as a mandatory pre-requisite for ensuring that the right to a fair trial is exercised. Therefore the principle of the independence of a court and judges, included in Article 83 of the *Satversme*, must be examined in interconnection with the principles of the rule of law and the separation of power, which are derived from the basic norm, as well as the first sentence of Article 92 of the *Satversme*, which provides for a person's right to defend his or her rights and lawful interests in a fair court (*compare Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 7*).

Unless judges are independent, human rights cannot be effectively exercised. Therefore the independence of judges is important to all, who turn to a court and count on fairness in the administration of justice (*see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 7.1*). The principle of justice is one among the principles of a democratic state governed by the rule of law, and only and independent judicial power can ensure a fair outcome of judicial proceedings. Anyone, with respect to whom justice is administered, is interested in ensuring the independence of judges. Thus, the independence of judges guarantees safeguarding of the rule of law in the interests of society and the State (*see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 7.2*).

The rights included in Article 107 of the *Satversme* pertain to the social sphere. Article 107 of the *Satversme* protects the rights of all persons, thus, also of a judge, to receive remuneration that is commensurate with the work done. At the same time, appropriate remuneration to judges is part of the content of judges' independence included in Article 83 of the *Satversme*, i.e., in one element of the principle of judges' independence – the financial security of judges (*see Decision of 28 March 2012 by the Constitutional Court on Terminating Legal Proceedings in Case No. 2011-10-01, Para 25*). Hence, the legislator, in setting judges' remuneration, enjoys discretion only to the extent it complies with the criteria that follow from the principle of judges' independence included in Article 83 of the *Satversme*.

Therefore, with respect to judges, in the assessment of the compliance of the contested norms with Article 107 of the *Satversme*, the principle of judges' independence included in Article 83 of the *Satversme* and the requirements regarding the system of judges' remuneration that follow from it should be abided by (*compare, see Decision of 28 March 2012 by the Constitutional Court on Terminating Legal Proceedings in Case No. 2011-10-01, Para 25*). To put it differently, the criteria for assessing, whether commensurate remuneration has been ensured to judges in the meaning of Article 107 of the *Satversme*, directly follow from Article 83 of the *Satversme*. Compliance of the contested norms with Article 107 of the *Satversme* must be examined by verifying compliance thereof with Article 83 of the *Satversme*. If it is found that the contested norms are incompatible with Article 83 of the

Satversme it will mean that the contested norms do not ensure to judges appropriate remuneration for work and are incompatible also with Article 107 of the *Satversme.*

Therefore, the Constitutional Court will examine compliance of the contested norms with Article 83 of the *Satversme*.

20. Article 83 of the Satversme provides that every judge must perform his obligations independently, subject only to the provisions of the law.

Judges have been granted the right to adopt final decisions regarding persons' rights and obligations. Every judgement of a judge (a panel of judges) that has entered into legal force has the force of law, it is mandatory to all, it must be respected as the law. A judgement by the judge (a panel of judges) of any level can influence the interests of society in general. The significance of a judgement does not depend on the level of the judge who has adopted it; therefore it is in the interests of society and the State to ensure the independence of all judges (*compare, see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 17.3.*).

Therefore, the Constitutional Court repeatedly notes that the legislator, in deciding on the appropriateness of judges' remuneration, must ensure that remuneration to any judge, irrespectively of the court's level or the time served in a judge's office, should comply with the principle of judges' independence. The legislator has the obligation to ensure to a judge, who has been just appointed to the office and started performing his duties of office, the same guarantees of independence as to a judge of a higher level, who has served as a judge for a rather long period of time. Hence, the Constitutional Court, in assessing compliance of the system of judges' remuneration established by the contested norms with Article 83 of the *Satversme*, must examine the amount of monthly salary set for a judge of a district (municipal) court, disregarding the possible additional payments for the length of service envisaged for a judge.

To verify the compliance of the system of judges' remuneration with the criteria that follow from the principle of judges' independence included in Article 83 of the *Satversme*, the system must be examined and a comparative assessment of a judge's remuneration for work must be performed. The Constitutional Court has previously compared a judge's remuneration with the remuneration set for a position

that is compared to a judge's office – the most highly qualified lawyer of an institution of public administration (*see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 21.6. and Decision of 28 March 2012 on Terminating Legal Proceedings in Case No. 2011-10-01, Para 29.2. and 29.3).* The legislator, by the contested norms, has linked the amount of judges' monthly salary to the maximum amount of the monthly salary of one particular group of highly qualified lawyers of institutions of public administration – the heads of legal structural units of institutions of direct public administration.

Thus, the Constitutional Court must verify, whether the contested norms ensure to a judge of a district (municipal) court such remuneration that complies with the criteria that follow from the principle of judges' independence included in Article 83 of the *Satversme*.

21. Judges' independence is linked to a number of essential guarantees, which are as follows: the guarantee for a judge's being in office (the procedure for appointing or approving judges in office, the qualification required for appointment, guarantees for retaining the office, conditions for advancement in office and being transferred to another office, conditions for suspending and terminating the mandate), immunity of a judge, financial security (guarantees of social and financial nature), institutional (administrative) independence of a judge and the actual independence of the judicial power from the political influence of the executive power or the legislator. All these guarantees are closely interconnected and, if even one of them is disproportionately restricted, then the principle of a judge's independence is violated and performance of the basic functions of a court and ensuring of human rights and freedoms is jeopardised (*see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 8.2.*). In a democratic state governed by the rule of law, judges' independence is essential to ensure a system of checks and balances between the branches of state power. In the framework of the case under review, the Constitutional Court will examine, whether the financial security of judges is ensured.

The financial security of judges must be understood as the State's obligation to envisage for judges such remuneration that would ensure to them due standard of living throughout a judge's career, taking into consideration the economic situation in

the state, as well as general standards of living. I.e., judges' remuneration should ensure the financial security of a judge on a level that would allow a judge to choose administration of justice as his vocation for life and should facilitate a judge's economic security and independence. Hence, a judge's financial security comprises not only his subsistence but also, in view of the public importance of a judge's office, also a certain quality or standard of living. Previously, the Constitutional Court has pointed to several aspects of judges' financial security and to the fact that in democratic states the financial security of judges has been clearly recognised as one of the most essential elements in ensuring judges' independence (*see, for example, Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 8.2.*).

21.1. The judicial power is one of the three branches of state power, in accordance with the principle of separation of power derived from the basic norm and included into the scope of Article 1 of the *Satversme.* Pursuant to Article 82 of the *Satversme*, the system of courts is a constitutional body, whereas judges are officials of this constitutional body, who implement administration of justice in the state. Every judge (if the case is adjudicated by one judge) or a panel of judges (if the case is adjudicated in a collegial manner), of which the court is composed, in their activities embody the judicial power. Thus every judge, in administering justice, acts as a check for the executive power and the legislator in the system of checks and balances that follows from the principle of separation of power. Whereas the legislator has an obligation, which follows from this principle of separation of power, to respect the status of a judge, i.e., to treat the judicial power so as to ensure balance between the three branches of power. This legislator's treatment of the judicial power must be reflected, *inter alia*, also in the legal regulation on judges' remuneration.

Taking into consideration only the functions that the branch of judicial power has been entrusted with and the specific criteria for establishing it, the office of a judge cannot be equalled to an office in another branch of power, envisaging united principles for defining their remuneration. A legislator's obligation to ensure to all persons working in the public field strictly uniform and proportional remuneration does not follow from the *Satversme*. However, considerable differences in remuneration to comparable offices that belong to different branches of power would disrupt the balance between the branches of power.

Principles for setting remuneration that are applicable only to judges follow from Article 83 of the *Satversme*. Whereas remuneration to officials of the executive power is determined on the basis of different principles. The remuneration to officials of the executive power is defined by taking into account the requirements set and the restrictions imposed on them. Moreover, the remuneration to officials of the institutions of direct public administration is influenced by the official's personal contribution to the performance of his duties, work outcomes and other circumstances, i.e., bonuses and additional payments are also envisaged for officials of the executive power. However, the judges' remuneration may not depend on the outcome of a judge's work or other circumstances, and therefore bonuses and monetary awards cannot be granted to judges (*compare, see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01 Para 8.2.*).

In creating the system of judges' remuneration, the legislator has the right to choose as the point of reference the amount of remuneration of an official of the executive power. However, in such a case, the legislator would have the obligation to create the system of judges' remuneration in a way to ensure its compliance with the principles that follow from Article 83 of the *Satversme*. Creating the system of judges' remuneration in accordance with principles that do not ensure the independence of the judicial power would be inadmissible.

A system of judges' remuneration, where a judge's remuneration depends on principles for setting the remuneration that are typical of another branch of the state power is incompatible with the principle of judges' independence.

21.2. Article 83 of the *Satversme* protects the actual value of judges' remuneration, and the prohibition to decrease the actual value of a judge's remuneration during his term in office follows from it (*see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 10.2. and 11.2.*). The actual value of a judge's remuneration can be established by the standard of living that the actual amount of remuneration, in absolute numbers, that a judge receives can ensure to him in the particular economic conditions of the state. Thus, the actual value of a judge's remuneration is to be understood as the relative value of remuneration – the ability to ensure a certain standard of living. Pursuant to Article 83 of the *Satversme*, the actual value of a judge's remuneration should ensure

a judge's financial security. Whereas a judge's financial security is not jeopardised only if the remuneration that a judge receives allows him to maintain an appropriate standard of living and to provide for the welfare of his family.

Only if the financial security of a judge is ensured there could be no doubts as to whether a judge is able to perform his duties of office totally independently. Public trust into the independence of the judicial power would be undermined if the judges were paid salaries so low that even the tiniest doubt could arise that judges could be influenced by exerting political or any other influence by economic means (*see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 21.1.*).

A judge should feel secure that during his term in office the actual value of his remuneration will not decrease, compared to the moment when he started performing his duties of office, and that in the case, if the costs of living increase, his remuneration will be increased accordingly. If the law does not comprise a procedure for automatically adjusting the remuneration to the changing costs of living then the law should provide for another mechanism that would ensure this conformity (*see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 11.2.*).

21.3. Protection of the actual value of judges' remuneration can be ensured if the legislator establishes such a system of judges' remuneration, which makes the actual amount of a judge's remuneration dependent on economic indications that reflect the economic situation in the state. After establishing a system like that, which envisages retaining the actual value of judges' remuneration, the legislator should not interfere in the functioning of the judicial power. Depending on the changes in the economic situation of the state, such a system of judges' remuneration would ensure an unchanging actual value of judges' remuneration. For example, the system of judges' remuneration that operated until 31 December 2010 was like that, it envisaged linking a judge's monthly salary to the average monthly salary in the state and it was recognised by the Constitutional Court as being compatible with Article 83 of the *Satversme* (*see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 11.5*).

The summoned persons – the Ministry of Finance and the sworn advocate E. Pastors – noted in their written opinions submitted to the Constitutional Court and

at the court hearing that linking the monthly salaries of judges to the average monthly salary in the state would be inadmissible because that would cause artificial increase in the monthly salaries of judges, i.e., each increase of the judges' salaries in the current year would cause future increase of the average monthly salary that would not be based on economic circumstances. However, the Constitutional Court finds that such a system of calculating the monthly salary, which makes the monthly salary dependent on the average monthly salary in the state, has been established by the Remuneration Law, in the wording that is in force at the time of examining this case, for the members of the *Saeima* and the local government councils, the Prime Minister, the Deputy Prime Minister, ministers and special task force ministers, parliamentary secretaries, the State Auditor and members of the Council of the State Audit Office, the Ombudsman, the chairman and members of the National Electronic Mass Media Council, the chairman and the deputy-chairman, the secretary and the members of the Central Election Commission, the chairman of the Central Land Commission, the chairman of the Higher Education Council, as well as to officials and employees of the Public Utilities Commission.

However, a legislator's obligation to establish exactly such a system that would ensure automatic retaining of the actual value of judges' remuneration does not follow from the principle of judges' independence included in Article 83 of the *Satversme*. The legislator has the right to choose also a fixed amount of judges' remuneration; however, in such a case, it should envisage regular review of the amount of judges' remuneration. I.e., the legislator should set a term for reviewing the amount of judges' remuneration and also define concrete objective criteria for assessing the actual amount of judges' remuneration and the procedure for examining it, at the same ensuring that the requirements regarding judges' independence are met.

Thus, the legislator must establish such a system of judges' remuneration that would ensure compliance of the actual value of judges' remuneration with the requirements regarding the financial security of judges and would comprise a mechanism for retaining it.

22. In view of the above, the Constitutional Court must verify, whether the system of judges' remuneration, established by the contested norms, complies with the criteria for a judge's independence that follow from Article 83 of the *Satversme*.

22.1. Payment for work ensures a judge's financial security if it is commensurate with the requirements set for the office of a judge and the restrictions that follow from a judge's office (*compare, see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 21*). Moreover, it should be taken into account that a judge, who is independent but is not sufficiently qualified, cannot ensure the right to a fair trial, correct application of law and protection of the values of the *Satversme*, therefore a judge's remuneration should be able to attract the most able candidates of a judge's office (*see, for example, Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 9*). Thus, to ensure the financial security of judges, judges' remuneration should be:

1) commensurate with the requirements set and restrictions imposed on a judge's office;

2) competitive.

22.2. The Constitutional Court already concluded that the legislator did not have an obligation, derived from the *Satversme*, to ensure strict uniformity of remuneration to all employees in the public sphere; however, a judge's remuneration should be commensurate with the requirements set for a judge's office and the restrictions imposed. By the contested norms, the legislator has linked a judge's monthly salary to the maximum amount of the head of a legal structural unit in an institution of direct public administration or the 12th group of monthly salaries. Consequently, the Constitutional Court must verify, whether the legislator has established with the contested norms such remuneration to a judge of a district (municipal) court that is proportional to the remuneration of a head of a legal structural unit in an institution of direct public administration.

A judge's status within the constitutional legal order and the function of administering justice performed by judges not only grants the right to the legislator but also imposes the obligation to set special requirements for judges as implementers of the judicial power with respect to competence, qualification and experience, as well as restrictions aimed at ensuring a judge's independence (*see Judgement of 18 January 2010 by the Constitutional Court in Case No. 2009-11-01, Para 9*).

Pursuant to the norms of the law "On Judicial Power", only a highly qualified and honest lawyer with an impeccable reputation may work as a judge. To attract to the judge's office professional, knowledgeable, mature and socially competent persons, an age limit has been set for a judge's office and special requirements regarding the professional experience of the candidate for a judge's office have been defined.

To ensure the independence of judges and the judicial power and to protect the reputation of the judicial power, restrictions on a judge's fundamental right have been imposed that follow from the status of a judge. Strict restrictions on combining offices have been set for a judge, which significantly decrease a judge's possibilities to take also other offices. A judge is prohibited from joining political parties and other political organisations and to go on strike. A judge must exercise his rights so as not to harm the dignity, honour, objectivity of the court and the judge and independence of the judicial power.

A judge must comply with the highest standards of conduct, because a judge may not, in daily life and in performing his duties of office, allow situations, actions or statements that could cause even the slightest doubts regarding his ability to maintain objectivity and independence and that might harm the honour and dignity of a judge and, thus, the court's in general. It should also be taken into consideration that judges, due to the importance of their office and because of the legal consequences of the rulings that they adopt, often come into the focus of public attention. In order not to lose his qualification, the judge has the obligation to update his knowledge during his career as a judge.

22.3. A judge of a district (municipal) court, when starting to perform his duties of office, receives remuneration, which consists of only the monthly salary, the amount of which, as determined by the contested norms, is equalled to the maximum amount of the 12th group of monthly salaries or 1647 euros.

However, civil servants, including the heads of legal structural units in institutions of direct public administration, whose position belongs to the 12th group of monthly salaries, have been envisaged the possibility to receive general and special additional payments of considerable amount.

Pursuant to the first, second, sixth, twelfth and thirteenth part of Section 14 of the Remuneration Law, the head of a legal structural unit in an institution of direct public administration is entitled to the following general additional payments:

1) additional payments in the amount of up to 30 per cent of the monthly salary for performing additional duties or for replacing another official, the total sum of which may not exceed 30 per cent of the monthly salary;
2) additional payment for overtime work or work on holidays in the amount of 100 per cent of the hourly rate of salary defined for him or compensation for overtime work, i.e., paid for by time of rest corresponding to the number of overtime hours in another day of the week;
3) additional payment for personal work contribution and quality of work in the amount of up to 40 per cent of the monthly salary (if this additional payment has been granted simultaneously with the additional payments referred to in Para 1, the total sum thereof may not exceed 60 per cent of the monthly salary).

In addition to that, the head of a legal structural unit in an institution of direct public administration may receive:

1) special additional payment for work that is linked to a particular risk;
2) special additional payment for ensuring functions that are essential for the public institution or implementing aims of strategic importance in the amount of up to 100 per cent of the monthly salary, insofar the amount of his monthly salary together with this special additional payment does not exceed the monthly salary set for the Prime Minister.

Moreover, the head of a legal structural unit in an institution of direct public administration, pursuant to Section 16 (2) of the Remuneration Law may receive a general bonus payment in connection with the annual performance assessment and work outcomes in the amount up to 75 per cent of the monthly salary. Pursuant to Para 5 of Section 3(4) of the Remuneration Law, the head of a legal structural unit in institution of direct public administration may receive monetary awards in connection with an event that is important for him or the institution, the total amount of which may not exceed, within a calendar year, the amount of monthly salary set for him.

The aforementioned norms of the Remuneration Law allow the heads of legal structural units in institutions of direct public administration, whose positions belong

to the 12th group of monthly salaries, to receive as the variable part of payment for work such remuneration that significantly exceeds the amount of remuneration that the contested norms set for a judge of a district (municipal) court.

It follows from the information on remuneration in the ministries and the State Chancery in the period from 2014 to 2017 hat the Constitutional Court received (*see Case Materials, Vol. 1 pp. 61–65 and 67–84;Vol. 5 pp. 48–70, 82–89 and pp. 129–149; Vol. 6. pp. 1–22*) and the outcomes of analysis of this information conducted by the summoned person A. Rieba (*see Case Materials, Vol. 6 pp. 29–42 and Vol. 7 pp. 65 –69*), as well as the explanations provided at the court hearing by the authorised representative of the State Audit Office (*see Case Materials Vol. 7, pp. 73 –76*) that the additional payments to the heads of legal structural units in the ministries and the State Chancery, actually, have become regular; i.e., additional payments in significant amounts are disbursed to them in the greater part of months of the calendar year or even throughout the calendar year. Moreover, in the majority of cases the procedure and substantiation for granting thereof is said to be formal.

As the result, the actual remuneration received by the heads of the legal departments (to whom the 12th or the 13th group of monthly salaries applies) in the majority of ministries, in fact, exceeds the monthly salary set for them by 20 up to 40 per cent, but in some ministries – even by 50 per cent. The Ministry of Justice is the only exception, where the amount of remuneration of the head of the legal department exceeds the monthly salary by no more than 20 per cent. However, in all ministries the remuneration of the heads of legal departments exceeds the maximum amount of monthly salary set for the 12th group of monthly salaries, in approximately 50 per cent of cases the remuneration of the heads of legal departments exceeds the maximum amount of the 14th group of monthly salaries and often even the maximum amount of the 16th group of monthly salaries.

Whereas the remuneration of the deputy-heads of legal departments at ministries (to whom the 11th or the 12th group of monthly salaries has been set) in approximately one-third of cases exceeds the monthly salary set for them by 20 to 25 per cent and in approximately two-thirds of cases – by more than 30 per cent (even up to 60 per cent). Thus, in 70 per cent of cases, the deputy-heads of legal departments in ministries receive remuneration, the amount of which actually significantly exceeds the maximum amount of monthly salary set for the 12th group of

monthly salaries and in some cases comes close to the maximum amount of the monthly salary set for the 14th group of monthly salaries.

The legal regulation on judges' remuneration included in the Remuneration Law *per se* does not reflect the high requirements with regard to qualification and social competence set for judges, or the restrictions set for the office, which guarantee the independence of judges in the meaning of Article 83 of the *Satversme*. Whereas the practice of applying the norms of the Remuneration Law in public administration only increases the threat to judges' financial security, essentially, even further reducing the actual value of judges' remuneration established by the contested norms, which is already inappropriately low. The contested norms set such remuneration for judges, the absolute and the actual value of which is lower than that of an official to whose monthly salary judges' monthly salary is linked by the contested norms. Hence, the actual value of judges' remuneration is incompatible with the high requirements set for the office of a judge and with the restrictions that are imposed and do not ensure financial security to judges.

Since the actual value of judges' remuneration does not ensure the financial security of judges because it is incompatible with the requirements set and restrictions established for the office of a judge, within the framework of the case under examination, the Constitutional Court no longer needs to examine, whether the judges' remuneration is competitive.

22.4. The current system of judges' remuneration does not comprise a mechanism for retaining the actual value of judges' remuneration, because in view of the linkage of the judges' remuneration envisages by the contested norms, the amount of their monthly salary would be reviewed only if the legislator were to decide to review the maximum amount of the monthly salary of the 12th group of monthly salaries. The law does not comprise a regulation on the legislator's obligation to review regularly the amount of judges' monthly salary, neither does it define the criteria that should be met to ensure such actual value of judges' remuneration that would ensure the financial security of judges. The current system of judges' remuneration does not envisage a legislator's obligation to review the judges' remuneration within a certain period. I.e., it is left in the legislator's discretion whether to review the judges' remuneration. Moreover, the contested norms link reviewing of judges' salaries with reviewing remuneration in public administration.

The only norm of the Remuneration Law, which provides reviewing the remuneration set in it, is Section 3(7), which provides: "A remuneration determined in the regulatory enactments for officials (employees) of a State or local government authorities shall be reviewed assessing the economic situation in the country (changes in gross domestic product, changes in productivity, inflation, deflation) and taking into account other justified criteria." However, this legal norm comprises only the obligation of the heads of state and local government institutions to review, within the limits of their competence, the remuneration set for the officials and employees of the respective institutions, and therefore it cannot be applied to judges' remuneration. Section 4^2 of the Remuneration Law, which envisage reviewing the amount of monthly salary of officials and employees, applies only to the heads of respective state and local government institutions. Hence, the Remuneration Law has established a system that is subjected to the criteria for setting remuneration of those working in public administration and does not ensure that the actual value of judges' remuneration is retained.

The Constitutional Court finds that the system of judges' remuneration established by the contested norms does not ensure such actual value of judges' remuneration that would guarantee their financial security, or the protection of the actual value of judges' remuneration. The linkage established by the contested norms does not ensure compliance of the judges' remunerations with the requirements that follow from the principle of judges' independence.

Hence, the contested norms are incompatible with Article 83 as well as Article 107 of the *Satversme* and are to be recognised as being invalid.

23. Pursuant to Section 32 (3) of the Constitutional Court Law, a legal provision that has been recognised by the Constitutional Court as being incompatible with a legal norm of higher legal force is to be recognised as being invalid as of the date when the judgement of the Constitutional Court has been published, unless the Constitutional Court has provided otherwise. This norm of the Constitutional Court Law grants to the Constitutional Court broad discretion in deciding, as of which date the norm that has been recognised as being incompatible with a norm of higher legal force becomes invalid. In deciding upon the date, as of which the contested norm becomes invalid, the rights and interests of other persons should be taken into

consideration. Moreover, recognition of a contested norm as being invalid should not cause new infringements upon fundamental rights defined in the *Satversme* (*see Judgement of 29 April 2016 by the Constitutional Court in Case No. 2015-19-01, Para 17*).

The Constitutional Court recognises that the legislator needs time to create a system of judges' remuneration that would comply with the requirements of Article 83 of the *Satversme* – to assess the actual value of remuneration to be ensured to every judge and to review the possibilities of the state budget. Therefore the Constitutional Court must set a sufficient term allowing the legislator to draft the necessary legal acts.

Hence, the contested norms are to be recognised as being invalid as of 1 January 2019.

The Substantive Part

On the basis of Sections 30 – 32 of the Constitutional Court Law, the Constitutional Court

held :

to recognise Section 4(9) and Section 6^1 (1) of "Law on Remuneration of Officials and Employees of State and Local Government Authorities" as being incompatible with Article 83 and Article 107 of the *Satversme* of the Republic of Latvia and invalid as of 1 January 2019.

The Judgement is final and is not subject to appeal.

The Judgement enters into force at the moment of its promulgation.

Chairperson of the court hearing Ineta Ziemele