



The Constitutional Court terminates legal proceedings in a case regarding compliance of prosecutors' monthly salaries with the *Satversme*

On 24 January 2018, the Constitutional Court decided to terminate legal proceedings in case “On Compliance of Section 4(9) and Section 6¹ (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”.

Contested Norms

Section 4(9) of Law on Remuneration of Officials and Employees of State and Local Government Authorities (hereinafter – Law on Remuneration):

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

Section 6¹ (1) of Law on Remuneration:

“The monthly salary of a district (municipal) court judge shall be determined by equalling it to the maximum amount of the monthly salary of the head of a legal structural unit at a state institution of direct administration (the 12th group of monthly salaries) in accordance with Annex 3 to this Law.”

Norms of Higher Legal Force

Article 83 of the *Satversme*:

“Judges shall be independent and subject only to the law.”

Article 107 of the *Satversme*:

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

The Facts

The case was initiated on the basis of an application by the Prosecutor General. The Prosecutor General holds that the contested norms determine a monthly salary to a district (municipal) court judge that is incompatible with requirements that follow from Article 83 and Article 107 of the *Satversme*. Therefore, the Prosecutor General is of the opinion that also the monthly salaries of prosecutors, which are linked to the monthly salary of a district (municipal) court judge, are incompatible with guarantees for the prosecutors' independence.

The Court's Findings and Ruling

The Constitutional Court pointed out that it had already examined compliance of the contested norms with Article 83 and Article 107 of the *Satversme* in the framework of case No. 2016-31-01, examining, *inter alia*, also the date as of which the contested norms should be recognised as being invalid. By the judgement in case No. 2016-31-01, the Constitutional Court recognised the contested norms as being incompatible with Article 83 and Article 107 of the *Satversme* and invalid as of 1 January 2019. [6.]

The Constitutional Court underscored that the prosecutor's office was an institution of judicial power and prosecutors were the officials of the judicial power; however, prosecutors do not administer justice. To perform the functions of the prosecutor's office, the prosecutor's independence should be guaranteed; however, the prosecutors' independence, essentially, is not identical to the judges' independence, guaranteed in Article 83 of the *Satversme*. [6.2.]

The Constitutional Court pointed out that the Prosecutor General had not requested the Constitutional Court to recognise as being incompatible with the *Satversme* the linking of a prosecutor's monthly salary to the monthly salary of a district (municipal) court judge, likewise, he had not provided such legal considerations due to which the Constitutional Court should examine separately the impact of the contested norms on the monthly salary of prosecutors. Moreover, the application had been submitted to the Constitutional Court before the judgement was passed in case No. 2016-31-01 and before amendments to the Remuneration Law entered into force, which added to the Remuneration law a norm,

which established the procedure for calculating monthly salaries of judges and prosecutors in 2018. [6.2.]

Thus, the Constitutional Court found that the subject of application in the case under review was identical to the one, with respect to which a judgement had already been passed in case No. 2016-31-01, which, pursuant to Para 5 of Section 29 (1) of the Constitutional Court Law, was a pre-requisite for terminating legal proceedings in a case. [6.2.]

The Constitutional Court decided:

to terminate legal proceedings in case No. 2017-13-01 “On Compliance of Section 4(9) and Section 6¹ (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 decision is not subject to appeal.

The text of the decision [in Latvian] is available on the homepage of the Constitutional Court:

http://www.satv.tiesa.gov.lv/wp-content/uploads/2017/05/2017_13_01_Lemums_izbeigsana.pdf

The press release was prepared with the aim to facilitate understanding cases heard by the Constitutional Court. It shall not be regarded as part of a ruling and is not binding to the Constitutional Court. The judgements, decisions and other information regarding the Constitutional Court are available at the homepage of the Constitutional Court www.satv.tiesa.gov.lv.

Ketija Strazda

Assistant to the President of the Constitutional Court

Ketija.Strazda@satv.tiesa.gov.lv

+ 371 67830737, + 371 26200580