Satversmes tiesa

Press Release • Case No 2021-25-03 • 9 June 2021

A case initiated with regard to the provisions that stipulate the maximum amount of legal aid costs reimbursable to a private individual

On 9 June 2021, the 4th Panel of the Constitutional Court initiated the case "On compliance of paragraphs 3, 4 and 5 of the Cabinet of Ministers Regulation No 859 of 8 November 2011 'Regulation on the maximum amount of expenditure on legal aid reimbursable to a private individual' (in the wording which was in force from 8 May 2015 until 9 April 2020) with the first sentence of Article 92 of the Constitution of the Republic of Latvia".

Contested Provisions

Paragraph 3 (in the wording which was in force from 8 May 2015 until 9 April 2020) of the Cabinet of Ministers Regulation No 859 of 8 November 2011 'Regulation on the maximum amount of expenditure on legal aid reimbursable to a private individual' (hereinafter – Regulation No 859) stipulated that the State reimburses expenses to one person in the following amount:

1. for legal consultation provided – EUR 19.21 per hour;
2. for drawing up an application, an ancillary complaint, or an administrative contract (amicable settlement) – EUR 32.01;
3. for drawing up an appellate complaint and a counter-complaint – EUR 38.42;
4. for drawing up a cassation complaint – EUR 45.53;
5. for drawing up a document necessary for settling a case (applications, petitions, or explanations (except for documents for requesting information and the documents referred to in sub-paragraphs 3.2, 3.3 and 3.4 of this Regulation)) – EUR 25.61;
6. for drawing up addenda to the documents referred to in sub-paragraphs 3.2, 3.3 and 3.4 of this Regulation – EUR 25.61;
7. for representation at a court hearing – EUR 28.46 per hour;
8. for examining one volume of case materials in court in one court instance – EUR 19.21.

Paragraph 4 of Regulation No 859 (in the wording which was in force from 8 May 2015 until 9 April 2020): "The State covers the expenses for legal consultation provided in the

amount referred to in sub-paragraph 3.1 of this Regulation for a maximum of five hours per case."

Paragraph 5 of Regulation No 859 (in the wording which was in force from 8 May 2015 until 9 April 2020): "The State covers the expenses for drawing up not more than five of the documents referred to in sub-paragraphs 3.2, 3.3, 3.4, 3.5 and 3.6 of this Regulation per case."

Provision of Superior Legal Force

First sentence of Article 92 of the Constitution (*Satversme*) of the Republic of Latvia (hereinafter – the Constitution): "Everyone has the right to defend their rights and lawful interests in a fair court".

Facts of the Case

The case has been initiated on the basis of an application filed by the company SIA "TAVEX" (hereinafter – the Applicant).
An administrative violation case was initiated against the Applicant and settled in favour of the Applicant as a result of the proceedings after the respective decision was contested. As part of those proceedings, the Applicant received legal assistance from a sworn advocate. After the final court decision in the administrative violation case came into effect, the Applicant turned to the competent authority with a request for reimbursement of the expenses related to the provision of legal assistance. The authority and administrative courts awarded reimbursement in the amount stipulated by Regulation No 859. The Applicant holds that the reimbursable amounts stipulated by the contested provisions for particular actions performed as part of legal assistance are disproportionately small. The contested provisions do not provide for reimbursement of the costs of an advocate's legal assistance which have been necessary for effective conduct of a case. More specifically, they do not provide for all types of legal aid expenses that may be necessary for effective conduct of a case. Also, even though since 8 November 2011, when the contested provisions were adopted, consumer prices have grown and the living standards have risen, the reimbursable amounts stipulated by those provisions have not been amended. Thus, the contested provisions lower the accessibility of counsel and, consequently, also of courts. Allegedly, it follows that the contested provisions restrict the Applicant's right to a fair trial.

Court Procedure

The Constitutional Court has requested the Cabinet of Ministers to submit a written reply stating the facts of the case and the legal reasoning by 9 August 2021.

- The case is to be prepared **by 9 November 2021**.

The Court will decide on the type of proceedings and the date of hearing once the case has been prepared.

The decision to initiate the case is available here: https://www.satv.tiesa.gov.lv/wp-content/uploads/2021/06/2021-25-03_lemums_par_ierosinasanu.pdf

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This release has been prepared to inform the public about the work done by the Constitutional Court. More detailed information on current issues, cases initiated and decided by the Constitutional Court is available on the website of the Constitutional Court at www.satv.tiesa.gov.lv. You are also invited to follow the information on the Court's *Twitter* account @Satv_tiesa and *YouTube* channel.

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Video about the Constitutional Court.

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