

Reimbursement of procedural costs in the case of parties represented by a lawyer

Abstract

The subject matter of this diploma thesis concerns the issue of reimbursement of procedural costs, with a primary focus on the costs of legal representation. The foundation of the thesis lies in the current legal framework regarding the reimbursement of procedural costs and its historical as well as contemporary interpretation.

The work is divided into five chapters, arranged chronologically from the most general to the most narrowly focused. The introduction presents the concept of procedural costs and costs of legal representation, followed by fundamental principles and possible conditions for entitlement to reimbursement of procedural costs. The most comprehensive chapter is the third chapter, addressing the lawyer's tariff as the fundamental legal regulation governing the fees and remuneration of lawyers and thereafter the costs of legal representation. The third chapter begins with general provisions of the lawyer's tariff and proceeds with a description of different legal services and the fees and remuneration of lawyers. The fourth chapter, dedicated to the formal aspect of reimbursement of procedural costs, includes the legal regulation of decisions on reimbursement of procedural costs. The final, fifth chapter is dedicated to the current topic, which is the amendment of the lawyer's tariff.

It has been deduced in this diploma thesis that procedural costs are one of the fundamental elements of any civil judicial proceeding, and a decision statement regarding them is an obligatory statement of the decision ending the proceeding – this also applies to decisions on remedies. The basic principles for the court's decision on reimbursement of procedural costs are the principle of success in the matter and the principle of fault, with the court also mandatory considering the prior sending of a final demand. The calculation of the amount of reimbursement of procedural costs is then based on three variables: the rate for a non-contractual fee for one act of the legal service, tariff value, and legal services.

When deciding on reimbursement of procedural costs, the court primarily relies on legislation, however, it may also consider the proposal of the entitled party to the proceedings – especially if the entitled party to the proceedings requests lower reimbursement of procedural costs or has waived the right. The decision on reimbursement of procedural costs always has the nature of a resolution, and it may be included in the decision statement or in a separate resolution. The permissible remedy against the decision on reimbursement of procedural costs

is an appeal, with an appeal on a point of law solely against the decision statement on reimbursement of procedural costs not being admissible – an exception sui generis is an appeal on a point of law brought by an intervener against a decision statement affecting their procedural costs.

In the analysis of the current revised ordinance draft amending the lawyer's tariff, it was concluded that the current revised ordinance draft is likely the result of a considerably higher compromise than the previous one, as a result of which this ordinance draft could indeed be approved.