

### **Costs of temporary representative**

“The temporary representative shall be entitled to reimbursement of costs in connection with the representation of the defendant, whose place of residence is unknown, and to claim that the prosecutor previously accepts these costs and to reimburse them. The court which has appointed a temporary representative is competent to decide on this claim.

The prosecutor can obtain these costs from the defendant, as part of their total lawsuit costs, in proportion to the success in the dispute”.

### **Rationale:**

The institute of temporary representative in civil proceedings has a purpose of the realisation of the principles of protection of subjective rights, guaranteed by the highest legal acts. However, in order to protect the interests of the opposite side (to which the temporary representative is appointed), where the temporary representative can, in principle, be any person who, under the applicable civil procedure law, may be a proxy, the issue of compensation of the costs of a temporary representative should be resolved through the appropriate application of the provisions of the Civil Procedure Law that govern the costs of presenting evidence. Accordingly, the costs related to the representation of the defendant by the temporary representative, at the proposal of a temporary representative, shall be borne by the prosecutor, and a temporary representative’s claim for the compensation of costs shall be decided upon by the court that appointed them. If a temporary representative is appointed to the defendant from the ranks of lawyers, the same shall be entitled to reimbursement of costs incurred in the process of the defendant’s representation, based on the relevant lawyers’ rates, and costs previously borne by the prosecutor, relating to representation of the defendant in respect of the temporary representative, shall be included in the total lawsuit costs of the prosecutor, and the decision on whether they will be ultimately be borne by the defendant, who was represented by a temporary representative, shall be made by the court, pursuant to the success of the parties to the dispute.