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THE COST OF DEFENCE IN CRIMINAL PROCEEDINGS INVOLVING YOUTH OFFENDERS – LEGAL PROVISIONS AND CONTRADICTIONS IN CASE LAW

Summary

Article 79, para. 1 of the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles determines that the court may oblige a youth offender to bear the costs of the criminal proceedings and fulfil a claim for restitution, only if sentence has been passed on the youth offender. If an educational measure has been imposed on the youth offender or if the proceedings have been suspended, the costs of the proceedings are funded by budgetary sources while the injured party is instructed to file a lawsuit in order to satisfy the claim for restitution, except, as is provided under para. 2 of the Article thereof, in cases when the youth offender has an income or property. The reason for this is the fact that educational measures are imposed in the form of an order, in which case the offender is not pronounced guilty. Case law in this area has been inconsistent. However, pursuant to the rulings of the Supreme Court of Cassation and its position of June 30, 2015, uniformity, including the exceptions stated above, has been achieved in the application of the legal provision under Article 79, para. 1 of the Law on Youth Offenders. At the same time, juvenile judges point out that apart from ex officio defence lawyers, who must possess a certificate confirming their specialized knowledge in the area concerning rights of the child and juvenile delinquency, and whose

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reimbursement is 50% lower than the regular Lawyers' Tariff, the right to a full reimbursement of the costs in the criminal proceedings involving youth offenders is increasingly claimed by defence lawyers hired by youth offenders themselves or by their representatives through a Power of Attorney, irrespective of whether they hold a certificate or not. This situation has led to a debate on the issue of defence costs in youth offender criminal proceedings, starting from legal provisions and case law. Finally, we propose that one of the contradictions arising from the practical application of Article 79 of the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles can be overcome by supplementing the provision outlined in para. 1 of the said Article.

Key words: *juvenile criminal law, costs of criminal proceedings, defence costs in youth offender proceedings.*