Constitutional judgment 3-4-1-59-14

JUDGMENT
in the name of the Republic of Estonia

Case number	3-4-1-59-14
Date	26 May 2015
Formation	Chairman: Priit Pikamäe;members: Eerik Kergandberg, Indrek Koolmeister, Jaak Luik and Ivo Pilving
Case	Review of the constitutionality of subsections 1 and 15 of § 57 of the State Fees Act in combination with Annex 1 thereto (the version in force from 1 July 2014 to 31 December 2014) and of subsections 1 and 15 of § 59 of the State Fees Act, which entered into force on 1 January 2015, in combination with Annex 1 thereto
Basis for proceedings	Request no. 17 by the Chancellor of Justice of 22 December 2014
Hearing	Written procedure

OPERATIVE PART
1. To grant the request of the Chancellor of Justice of 22 December 2014 in part.
2. To declare subsections 1 and 15 of § 57 of the State Fees Act (RT I, 29.06.2014, 66; RT I, 30.12.2014,

12) in combination with Annex 1 thereto (the version in force from 1 July 2014 to 31 December 2014) and of subsections 1 and 15 of § 59 of the State Fees Act (RT I, 30.12.2014, 1), which entered into force on 1 January 2015, in combination with Annex 1 thereto, unconstitutional and repeal them to the extent that a state fee of up to 10 500 euros is to be paid in the event where the value of a civil case exceeds 500 000 euros.
3. In the event where the value of a civil case exceeds 500 000 euros, a state fee of 3400 must be paid.

FACTS AND COURSE OF PROCEDURE

1. On 11 June 2014, the Riigikogu adopted the Courts Act and Related Acts Amendment Act (RT I, 21.06.2014. 8). Amendments made to § 57 of the State Fees Act (SFA) and to Annex 1 to the SFA by this act entered into force on 1 July 2014.

2. The Chancellor of Justice assessed the amounts of the state fees applicable to judicial proceedings and came to the conclusion that subsections 1 and 15 of § 57 of the SFA in combination with Annex 1 to the SFA are unconstitutional to the extent that these allow for establishing an excessively high impediment to a person in the form of a state fee upon having recourse to the court in order to protect one's violated rights. On 5 November 2014, the Chancellor of Justice submitted proposal no. 31 to the Riigikogu, asking to bring the State Fees Act into compliance with the Constitution.

3. The plenary assembly of the Riigikogu discussed the proposal of the Chancellor of Justice on 11 December 2014 and decided not to support it.

4. On the day before, i.e. 10 December 2014, the Riigikogu had adopted the new State Fees Act (RT I, 30.12.2014, 1), which entered into force on 1 January 2015. The state fee rates set out in § 59 therein regarding filing a statement of claim, an appeal or an appeal against an order deciding a case that does not involve a claim in judicial proceedings remained the same as the state fee rates provided for in § 57 of the SFA, which was in force from 1 July 2014 to 31 December 2014.

5. On 22 December 2014, the Chancellor of Justice submitted to the Supreme Court request no. 17, requesting that subsections 1 and 15 of § 57 of the SFA and Annex 1 to the SFA be declared unconstitutional to the extent that these allow for imposing on a person an excessively high impediment upon having recourse to the court in order to protect their violated rights.

REQUEST BY CHANCELLOR OF JUSTICE

6. The Chancellor of Justice submits that subsections 1 and 15 of § 57 of the SFA, in combination with Annex 1 to the SFA (in the version in force from 1 July 2014 to 31 December 2014), are in conflict with: § 11 of the Constitution, according to which restrictions of subjective rights must be necessary in a democratic society and must not distort the nature of the restricted rights and freedoms; the fundamental right of defence

provided in § 13; the fundamental right to organisation and proceedings secured by § 14; the right of recourse to the court provided for in subsection 1 of § 15; and the right of appeal secured by subsection 5 of § 24 of the Constitution.

7. The Chancellor of Justice finds that the state fee cannot be deemed as a price at which a person buys the service of administration of justice from the state. A person is not obligated to pay the costs that the court system incurs due to hearing their case. No one must contribute to the state budget revenue in general upon having recourse to the court for the purpose of protecting their rights. In cases where the value of the claim is higher, a fee exceeding the cost of adjudicating it cannot be charged for the purpose of covering, by way of cross-subsidisation of court cases, the costs of those civil cases where the state for some reason cannot demand that the parties to the proceedings fully bear the costs. The purpose of the state fee in judicial proceedings is to influence a person's behaviour and to prevent excessive costs. If the state fee exceeds the total cost of adjudicating a case, it cannot serve its only legitimate purpose of procedural economy, i.e. discouraging people from excessively taking matters to the court. The contested provisions are not made constitutional by the possibility of applying for procedural aid.

8. The legislature has broad discretion regarding how to calculate the cost of court cases. The state fee rate must, nevertheless, be justifiable by objective criteria. The reliability of the value-of-claim criterion used as the basis by the legislature for assessing the cost of adjudication of a court case has not been proven. The maximum limit of the proportional state fee is the average cost of adjudication of one court case. Any state fee that exceeds the average cost of adjudication of a court case is unconstitutional. Since, according to a forecast of the Ministry of Justice, the average cost of contentious civil claim proceedings per case does not exceed 1100 euros by much at the first instance in 2015 and there is no reason to believe that this cost would have been higher than the one given in the forecast for 2014, state fees are unconstitutional to the extent that they exceed 1100 euros.

9. At the same time, the state fees falling short of the average cost of adjudicating a court case may not be in accordance with the Constitution either. The relationship with the average gross monthly salary and the minimum wage in Estonia is an additional criterion that also establishes a limit to the size of state fees that fall short of the maximum limit justifiable by the deterrence function.

OPINIONS OF PARTIES

10. The Riigikogu ... [Omitted.]

11. Minister of Justice … [Omitted.]

12. Minister of Finance … [Omitted.]

CONTESTED PROVISIONS

13. Subsections 1 and 15 of § 57 “Steps in civil proceedings” of the State Fees Act (RT I, 29.06.2014, 66; RT I, 30.12.2014, 12):

“(1) Upon filing a statement of claim, the state fee is paid based on the value of the claim in accordance with Annex 1 to this Act or as a fixed sum. [---]”

“(15) Upon filing an appeal as well as upon filing an appeal against an order deciding a non-contentious case, the state fee is paid in an amount equal to the amount that must be paid upon filing a claim or another application with the county court for the first time, taking account of the scope of the appeal. [---]”

14. Extract from Annex 1 to the State Fees Act “State Fee Rates for Filing Petitions and Applications in Judicial Proceedings (in euros)” (in the version in force from 1 July 2014 to 31 December 2014):

Value of civil case up to (included)	Full rate of state fee
350	75
500	100
750	125
1000	175
1500	200
2000	225
2500	250
3000	275
3500	300
4000	325

4500	350
5000	400
6000	425
7000	450
8000	475
9000	500
10 000	550
12 500	600
15 000	650
17 500	700
20 000	750
25 000	900
50 000	1000
75 000	1100
100 000	1200
150 000	1500
200 000	1800
250 000	2100
350 000	2700

500 000

3400

Where the value of a civil case exceeds 500 000 euros, a state fee of 3400 euros + 0.25 per cent of the value of the civil case, but no more than 10 500 euros must be paid.

OPINION OF CHAMBER

15. In the request of 22 December 2014, the Chancellor of Justice has contested subsections 1 and 15 of § 57 of the SFA in combination with Annex 1 to the extent that these allow for imposing on a person an excessively high impediment when having recourse to the court for the purpose of protecting their rights. The state fee rates provided for in subsections 1 and 15 of § 57 of the SFA in combination with Annex 1 were in force until 31 December 2014. The same state fee rates continue to exist on the basis of subsections 1 and 15 of § 59 of the SFA in combination with Annex 1, which entered into force on 1 January 2015. It follows therefrom that if subsections 1 and 15 of § 57 of the SFA in combination with Annex 1 allowed for imposing on a person an excessively high impediment when having recourse to the court for the purpose of protecting their rights, the same unconstitutional situation continues to be caused by subsections 1 and 15 of § 59 of the SFA in combination with Annex 1 as well. Therefore, based on the aforementioned, the Chamber will review the constitutionality of the state fee rates applicable under subsections 1 and 15 of § 57 of the SFA in combination with Annex 1 in force from July 2014 to 31 December 2014 as well as under subsections 1 and 15 of § 59 of the SFA in combination with Annex 1 in force from 1 January 2015.

16. Subsections 1 and 15 of § 57 of the SFA in combination with Annex 1, which were in force until the end of 2014, and subsections 1 and 15 of § 59 of the SFA currently in force in combination with Annex 1 are formally in accordance with the Constitution. The provisions have been adopted by the required majority in the Riigikogu, they have been published in accordance with the prescribed procedure and understanding them does not cause difficulties. Upon reviewing the substantive constitutionality of the state fee rates applicable to civil proceedings, which were contested by the Chancellor of Justice, the Constitutional Review Chamber of the Supreme Court will discuss the fundamental rights infringed by the obligation to pay the state fee and identify the legitimate purposes of the infringement (I), review the proportionality of the infringement towards the aim (II) and present the final conclusion (III).

I

17. An infringement of a fundamental right means any unfavourable affecting of its protective zone. The Chamber finds that the contested state fee rates applicable to civil proceedings infringe, above all, a persons' right to have recourse to the court, which is secured by, first of all, subsection 1 of § 15 of the Constitution, and the right of appeal provided for in subsection 5 of § 24 of the Constitution. If the required fee has not been paid and the person cannot be released from the obligation to pay it, the acceptance of the case for

adjudication is impeded and the court cannot examine the alleged violation of the person's rights (see also the 20 June 2012 judgment of the Constitutional Review Chamber of the Supreme Court in case no. 3-4-1-10-12, para. 28).

18. Any restrictions of the right of recourse to the court and the right of appeal (in the given decision, the right to judicial protection) must not harm an interest or right protected by law more than can be justified by a legitimate purpose of the rule containing the restriction. The first legitimate purpose of the infringement of the right to judicial protection, which arises from state fees charged in judicial proceedings, is procedural economy as a constitutional legal value, which arises from Chapter XIII of the Constitution (the 9 April 2008 judgment of the Constitutional Review Chamber of the Supreme Court in case no. 3-4-1-20-07, para. 19; see also the 17 March 2003 judgment of the Supreme Court *en banc* in case no. 3-1-3-10-02, para. 28). In the case of state fees, procedural economy is expressed in the fact that the state guides persons not to file unfounded or malicious claims the adjudication of which may result in the inability of the court system to offer efficient judicial protection within a reasonable time when the need for it is obvious (see the 12 April 2011 judgment of the Supreme Court en banc in case no. 3-2-1-62-10, para. 45).

19. If the sole legitimate purpose of an infringement of the right to judicial protection were procedural economy, it would not allow for exhaustively assessing the proportionality of restriction of the given right. Procedural economy is based on an assessment of the courts' workload and the ability to provide efficient legal protection. Procedural economy is a legitimate purpose for the legislature in order to set state fees at such a level as to deter clearly unfounded or malicious claims. State fees based on such an idea have been established, for instance, in the administrative court procedure. The state fee on a claim, appeal against a judgment, appeal against an order or a request for provisional legal protection is, under subsections 1, 6 and 7 of § 60 of the SFA, usually 15 euros in the administrative court procedure. Upon filing an appeal in cassation or an appeal against an order or an application for review, the security payable under subsection 2 of § 107 of the Code of Administrative Court Procedure is 25 euros.

20. Due to the considerably higher number of judicial civil law disputes, incl. the considerably higher number of justified court disputes, the low state fee rates effective in the administrative court procedure (probably) could not ensure procedural economy or prevent the overburdening of the courts. At the same time, the legislature cannot establish considerably higher state fees in the civil procedure than in the administrative court procedure by using the justification of ensuring procedural economy. Procedural economy cannot be a legitimate purpose upon deterring those who come to the civil court for a reason by using an unreasonably high state fee.

21. In the event of relatively low state fee rates that discourage filing unfounded and malicious claims, the civil procedure should to a greater extent be funded at the expense of other sources of revenue from the state budget, i.e. essentially at the expense of tax revenue. This would not be in the public interests because, unlike in administrative and criminal cases or in a relatively small number of civil cases of a certain type, which have a broader social dimension to them (e.g. disputes concerning children and family), most of the private law disputes usually do not concern public interests. Upon resolving legal disputes in private law, the court usually acts as a regulator of a dispute between the parties. The interests of the public are rather secondary in the case of most civil law disputes in comparison with, for example, the administrative court procedure where the role of the court also lies to a significant extent in balancing the executive.

22. The functioning of the state via the court system in the civil procedure mainly in the interests of individuals justifies the charging of fees for procedural steps to a greater extent than in the administrative court procedure. This means, in turn, that in civil cases the state may obligate the parties to the proceedings to participate in bearing the costs of administration of justice to a greater extent. Following this principle is permissible for the purpose of not having other taxpayers fully finance the adjudication of court disputes concerning a limited circle of persons (see the 12 April 2011 judgment of the Supreme Court *en banc* in case no. 3-2-1-62-10, para. 45). It follows from the aforementioned that the partial bearing of the costs of the state arising from the civil procedure by the person interested in the adjudication is, besides procedural economy, the second constitutional value that constitutes a legitimate infringement of the right to have recourse to the court (see also the 6 March 2012 judgment of the Supreme Court *en banc* in case no. 3-2-1-67-11, para. 25.5).

II

23. A fundamental right must not be infringed to an extent that goes beyond the legitimate purpose of the rule containing the infringement. An infringement of the right to judicial protection is proportionate if it is appropriate and necessary for attainment of the purpose as well as proportionate in the narrow sense. A measure is appropriate if it supports the attainment of the purpose. A measure is necessary if the purpose cannot be attained by another measure that is less burdensome on the person, but is at least as effective as the former. In order to decide over the proportionality of a measure in the narrow sense, the scope and intensity of interference with the fundamental right must be weighed on one hand and the important of the purpose on the other (see the 26 March 2009 judgment of the Supreme Court *en banc* in case no. 3-4-1-16-08, para. 29).

24. In the event of specific judicial review of legal rules, the facts of each individual case must be relied on when verifying the proportionality of the state fee rate. In specific judicial review of a legal rule, the Court *en banc* has found that the relevant criteria upon assessing the proportionality of a state fee include the person of the claimant, the ability of the person having recourse to the court to pay the state fee, social circumstances, nature of the legal dispute, the stage of the proceedings and the object of the statement of claim (the 21 January 2014 judgment of the Supreme Court *en banc* in case no. 3-4-1-17-13, paras. 37, 38, 40 and 43.3).

25. The present case does not involve specific judicial review of a legal rule initiated in court proceedings, but abstract judicial review of the constitutionality of the legislation chosen by the legislature to govern state fees. In the case of abstract judicial review of a legal rule, the general features and conditions of the governing legislation must inevitably be taken into account. The legislation must be sufficiently generalising and cannot very accurately take into account every possible individual case covered by it. In spite of the aforementioned, the Chamber finds that in assessing the proportionality of state fee rates by way of abstract judicial review of the state fee system in force it is still possible to take into account to a necessary extent the Supreme Court’s relevant case-law concerning specific judicial review.

26. The Constitution does not prohibit the charging of fees upon exercising the right of recourse to the court and upon exercising the right of appeal in the civil procedure. Assessing the appropriateness and necessity of the state fee rates contested by the Chancellor of Justice, the Chamber notes that the Supreme Court *en banc* has, in cases of specific judicial review, found state fee rates that are considerably higher than the highest contested state fee rate (10 500 euros) to be an appropriate and necessary measure both for the purpose of

ensuring the participation of the parties to the proceedings in covering the costs of administration of justice as well as for the purposes of ensuring procedural economy (see, for instance, the 12 April 2011 judgment of the Supreme Court en banc in case no. 3-2-1-62-10, paras. 46 and 47). The Supreme Court *en banc* has also held that increasing the number of judges or expanding state legal aid in bearing procedural expenses are not as an effective measure as the charging of fees for attainment of the aforementioned purposes (the 12 April 2011 judgment of the Supreme Court *en banc* in case no. 3-2-1-62-10, para. 47). These measures do not allow for preventing filing unfounded or malicious claims and would not ensure the partial covering of the costs of administration of justice by the parties to the proceedings. The Chamber also does not see any ground for disregarding the aforementioned case-law of the Supreme Court *en banc* in the event of abstract judicial review of a legal rule and, therefore, deems the contested state fee rates to be an appropriate and suitable measure for attaining the purposes of procedural economy as well as participation in bearing the costs of administration of justice.

27. Next, the Chamber will analyse the narrow proportionality of the infringement of the right to judicial protection by the state fee rates established in the civil procedure in the light of the principle of participation in covering the costs of administration of justice and procedural economy. According to the principle of proportionality, the restrictions must be necessary in a democratic society and must not distort the nature of the infringed rights and freedoms (the second sentence of § 11 of the Constitution).

28. First, the Chamber notes that the principle of participation in covering the costs of administration of justice is not a legitimate purpose for establishment of state fee rates of just about any size. The Supreme Court *en banc* has held that, in the context of the given principle, court fees' possible purpose of earning revenue for the state and financing the state's other expenses from them cannot, where the fee exceeds the amount necessary for covering the costs of administration of justice of the parties to proceedings and ensuring procedural economy, be deemed legitimate. It would be in a clear conflict with the essence of the fee under § 113 of the Constitution (the 12 April 2011 judgment of the Supreme Court *en banc* in case no. 3-2-1-62-10, para. 45).

29. Section 113 of the Constitution reads: "National taxes, encumbrances, fees, fines and compulsory insurance payments are established by law." In its case law to date, the Supreme Court *en banc* has explained the nature of state fees in the framework of § 113 of the Constitution in the context of the participation fee charged from a participant in an auction of land in the course of the ownership reform. The Court *en banc* held that the state fee is a charge for taking a step or issue of a document by the state under public law. The difference between a state fee and tax lies in the fact that the payer of the fee receives a specific counter-performance in the form of taking a step or the issue of a document. The purpose of a fee is to have the interested person compensate for the expenses of a specific step, while tax is an undisputable monetary obligation imposed on a taxpayer without any direct counter-performance for the purpose of obtaining revenue required for performance of public functions (see the 22 December 2000 judgment of the Supreme Court *en banc* in case no. 3-4-1-10-00, para. 24). It follows from the aforementioned that the imposition of state fees on steps taken under public law is permitted for the purposes of the Constitution as long as the step entails a counter-performance for the person who paid the fee and the sum of money charged as the state fee is meant for covering the costs related to taking the step. In the civil procedure, the principle of participation in bearing the costs of administration of justice arises therefrom.

30. Performance of the obligation to pay the state fee is, according to the law, the prerequisite for the judicial discussion of a problem or for the hearing of an appeal of a person who has recourse to the court. The charging of a fee on having recourse to the court and exercising the right of appeal in the civil procedure is not in conflict with the spirit of § 113 of the Constitution, because the person who paid the fee will get from

the state a counter-performance that corresponds to their interests, i.e. the administration of justice. In the context of the civil procedure, it lies in the adjudication of a legal dispute between two parties, which arises from a private legal relationship.

31. The central issue of this court case lies in how the legislature should act in order to establish state fee rates that are proportionate to the counter-performance in the civil procedure. According to the statutory reservation set out in § 113 of the Constitution, decisions on the establishment of fees have been placed within the exclusive competence of the legislature. The legislature decides which public services to subject to fees and determines the rates of the fees charged for the services. To a certain limit, the legislature is also free to decide to what an extent to apply the principle of participation in covering the costs of administration of justice.

32. Upon establishment of the state fee system, the legislature has decided to make the state fee rates dependent on the price of the civil case; thereby it is clear that there is no direct connection between the value of a civil case and the cost of adjudication of the civil case: it may well happen that a low-value civil case is legally very complex and the cost of adjudicating it is disproportionately high. The method chosen by the legislature means that in the case of some legal disputes the state fee charged is smaller than the cost of settling the dispute, while the state fee charged for the settling of some of the civil cases exceeds the cost. In the case of such method, the state fosters the adjudication of lower-value civil cases via a lower state fee rate by, so to say, cross-subsidising the covering of the actual costs of adjudication of lower-value civil cases via civil cases whereby a higher rate of the state fee is charged. Claims with a value of 100 000 to 500 000 euros, whereby the state fee rates amount to 1200-3400 euros, i.e. over the average cost of the civil cases (approx. 1100 euros in 2015), are primarily filed by private legal persons who are better able to pay the state fee. The legislature's decision to, upon establishment of state fee rates, take into account the value of the object of dispute besides the costs of adjudication of a court case is justified because if the risk of payment of too high a state fee accompanying the filing of a small pecuniary claim, it would excessively discourage persons from having recourse to the court.

33. However, the legislature's discretion in imposing fees for procedural steps in the civil procedure is not unlimited. Since the availability of administration of justice is expanded or limited via the rates of state fees, it must be taken into account upon determining the rates of state fees that they must not distort the nature of judicial protection for the purposes of § 11 of the Constitution.

34. Upon following the principle of proportionality, it is of utmost importance for the legislature to ensure that state fees are proportional in the narrow sense with regard to the right of recourse to the court. Otherwise the state would not perform its duty to ensure public order and legal peace via peacefully resolving problems arising in society, i.e. upon performing the duty specified in the fourth paragraph of the preamble to the Constitution: ensuring peace within the state.

35. Upon establishment of state fee rates for judicial proceedings, the legislature must also take into account the fact that administration of justice is one of the core functions of the state. The state must finance its core functions, above all, from tax revenue. This means, among other things, that the state has the duty to ensure the effectiveness and availability of administration of justice, regardless of the extent to which the state fee revenue earned from civil cases allows for covering the expenditure on administration of justice. Parties to proceedings can only partially be demanded to cover costs arising from administration of justice.

36. The Chancellor of Justice contests the state fee rates in force only to the extent that they exceed the average cost of adjudication of civil cases, i.e. 1100 euros. The Chamber has doubts about the possibility of calculating the exact amount of costs incurred for adjudicating a court case. Among other things, it is difficult to measure the state's costs of adjudication of a civil case in money because the adjudication of a court case and creation of prerequisites for it calls for the contribution of various other state officials (judicial clerk, advisers, consultants, analysts, secretaries, interpreters, IT specialists, etc.). It is also clear that this indicator constantly changes over time. To ensure the stability of the legal environment, state fees cannot be regulated by taking into account every change in the economic environment, which influences, among other things, the salary of court officers. Even if one was to rely on the average cost of adjudication of a civil case (i.e. 1100 euros), it must be kept in mind, upon taking into account the principle of participation in covering the costs of administration of justice, that a large portion of civil cases actually causes higher-than-average costs to the state.

37. In the case of state fee rates it is not possible to attain full correspondence to the actual costs of administration of justice in an individual civil case, because the costs arising from the working time of judges and court officers in adjudicating one court case can be nothing but estimated costs. Therefore, a person having recourse to the court must pay a fee that is somewhat higher or lower than the actual cost of the judicial hearing of their civil case. Differences between the actual costs and estimated costs of adjudicating a civil case can, to a limited extent, be balanced by cross-subsidisation. As a result of cross-subsidisation within court fees, the judicial fees must remain proportionate to the expenses that the state incurs upon adjudicating civil cases of a certain type. Under § 113 of the Constitution, the rate of a judicial fee must not clearly exceed the financial expenses incurred on adjudicating the civil case.

38. According to the statistics submitted by the Riigikogu on the cost of adjudication of civil cases, where civil cases have been presented based on their type, the average cost of one civil case in the circuit court was over 2000 euros in 26 out of 44 types of civil cases in 2015 (more specifically, 2165 euros and 48 cents, but in one civil case type 2004 euros and 1 cent). Thus, far more than a half of the types of civil cases cost over 2000 euros to adjudicate in the circuit court, which is much more than the limit of 1100 euros suggested by the Chancellor of Justice. In the county court, the average cost exceeds 1500 euros in the case of 13 out of 44 civil case types; thereby the cost is 2360 euros and 97 cents in the case of two civil case types, and in eight more civil case types the cost exceeds the level of 1100 euros suggested by the Chancellor of Justice. Since these are average costs in county and circuit courts, the judicial cost of most civil cases must be even higher in reality.

39. It follows from the aforementioned that the Chamber does not have any ground to conclude that the table set out in Annex 1 to the SFA, which establishes the state fee rates regarding the civil case values of up to 500 000 euros and whereby the highest fee rate is 3400 euros, clearly exceed the actual costs of adjudicating a civil case in court. It is clear, however, that since the highest average cost rate according to the type-based statistics submitted regarding the cost of adjudication of the aforementioned civil cases is 2360 euros and 90 cents, the ceiling of the court fees given in the table (i.e. 10 500 euros) considerably exceeds the actual costs of adjudicating a civil case.

40. A state fee rate that amounts to 10 500 euros in the civil procedure is disproportionate with regard to, above all, individuals' right to judicial protection. The provisions on granting procedural aid to individuals, which is set out in subsection 2 of 182 of the CCP, does not preclude situations where the state fee of 10 500 euros demanded from an individual makes their right of recourse to the court ostensible. Thereby it should be taken into account that everyone who files a claim with the court takes the risk that, regardless of whether

they receive procedural aid or not, they will eventually have to pay the fee, incl. in the events specified in subsections 4 and 5 of § 190 of the CCP, where the person must, should they lose the dispute, compensate the state for the state fee which they were released from paying upon filing the claim following the completion of the court dispute (see the 6 March 2012 judgment of the Supreme Court *en banc* in case no. 3-4-1-67-11, para. 18.2). The Chamber finds that the maximum monetary obligation set out after the table given in Annex 1 to the SFA, according to which the state fee for a civil case whose value exceeds 500 000 euros is 3400 euros + 0.25 percent of the value of the civil case, but no more than 10 500 euros, is not proportionate, given the costs of the administration of justice, to the extent that it establishes 10 500 euros as the maximum rate of the state fee.

41. In view of the above, the Chamber holds that the maximum monetary obligation set out after the table given in Annex 1 to the SFA, according to which the state fee for a civil case whose value exceeds 500 000 euros is 3400 euros + 0.25 percent of the value of the civil case, but no more than 10 500 euros, disproportionately restricts persons' fundamental rights and is thus unconstitutional to the extent that it sets the maximum state fee rate at 10 500 euros. This does not preclude that in specific judicial review of a legal rule it may become evident that another of the contested state fee rates may not be proportional in the narrow sense towards the right of recourse to the court, given who the claimant is and what is their actual ability to pay the state fee, the nature of the legal dispute and the object of the statement of claim.

III

42. Based on the aforementioned considerations, the Chamber partially grants the request of the Chancellor of Justice and, in accordance with clause 2 of subsection 1 of § 15 of the JCRPA, declares subsections 1 and 15 of § 57 of the State Fees Act (RT I, 29.06.2014, 66; RT I, 30.12.2014, 12) in combination with Annex 1 thereto (the version in force from 1 July 2014 to 31 December 2014) and subsections 1 and 15 of § 59 of the State Fees Act (RT I, 30.12.2014, 1) in combination with Annex 1 thereto, unconstitutional and repeals them to the extent that a state fee of up to 10 500 is to be paid in the event where the value of a civil case exceeds 500 000 euros.

43. Due to declaring the maximum financial obligation of 10 500 euros established following the table set out in Annex 1 to SFA (RT I, 30.12.2014, 1) unconstitutional and repealing it, it would be unclear, until a new maximum state fee rate is established, as to what extent persons having recourse to the court would have to pay the state fee rate on a civil case whose value exceeds 500 000 euros. Since the Chamber held that the contested fee rates clearly do not exceed the actual costs of adjudicating a civil case in the civil procedure to the extent of up to 3400 euros, the state fee of 3400 euros must be paid on a civil case whose value exceeds 500 000 euros until the legislature has established a new maximum state fee rate applicable to the civil procedure.
