**The Tariff in the Republic of Croatia**

**About the Tariff**

The position of the legal profession in the Republic of Croatia arises from the Croatian Constitution. The Constitution expressly defines the legal profession as an independent and autonomous service providing legal assistance to everyone in line with the law. In its case-law the Constitutional Court confirmed several times that the meaning and objective of the legal profession is primarily the provision of professional legal assistance to those who need it. It also confirmed that legal assitance, strictly defined as the profession of lawyers, is an important factor of legal certainty and one of the aspects of the performance of the judiciary and of the administration.

The provision of legal assistance by the legal profession may not be understood as an economic activity. Due to its specific nature the legal profession cannot be subject to the rules of demand and supply on the market.

The constitutional definition of the legal profession positions Croatia into a small group of countries that, including Slovenia[[1]](#footnote-1), recognize the legal profession as a constitutional category.

Despite the specific nature of the legal profession, it is clear that lawyers are entitled to remuneration for their work and to a compensation of the costs related to the work performed. Recognizing the constitutional importance of the legal profession, the Legal Profession Act stipulates that lawyers have this right according to the Tariff. The Tariff-based lawyer's remuneration system is compliant with the Croatian legal system and its tradition and places Croatia into a broader group of European countries, together with Germany and Italy.

The Lawyers' Tariff, whose full title is "Lawyers' Tariff and Cost Compensation is established and passed by the Croatian Bar Association - more specifically by the Management Board of the CBA and is subject to the consent by the Minister of Justice.

It is important to say that the Tariff is not a mathematical table, nor a simple calculation tool. It is a set of rules that takes into account the rights and interests of lawyers, but also the protection of social and economic interests. In addition, when giving their consent, the Minister of Justice takes into account the protection of social and economic interests and equality, as does the CBA that takes into account and cares for the interests of lawyers, but also of citizens. The fact that the CBA takes care about social and economic interests is also evidenced by the fact that the Minister of Justice has given his consent to every single proposal made by the CBA so far.

The Tariff prescribes the manner of assessment, calculation and payment based on the actions performed, and the single tariff items are grouped according to the types of proceedings (criminal and misdemeanor proceedings, civil proceedings, enforcement and security proceedings, bankruptcy proceedings, administrative proceedings, land registry proceedings, miscellaneous, etc.).

The value of the lawyer's action is expressed in the Tariff in points (e.g. drafting a claim, drafting a response to a claim, representing at hearings, drafting a contract, etc.), and the Tariff also prescribes the value of a single point. By multiplying the number of points per action and the value of a point of HRK 10.00, a lawyer is rewarded for his work. The lawyer is entitled to charge VAT on the action performed regardless of the type of action.

The CBA made significant changes to the Tariff in 2012, when the new Tariff was adopted, and subsequently made minimal changes almost exclusively to give certain groups of citizens easier access to legal assistance, for example by introducing one-off rewards prescribed by the Tariff for some particularly sensitive procedures (such as family law proceedings where child protection is important). The value of the point has not changed since 2004, despite the significant increase in the cost of living and the cost of doing business. This shows that the CBA and its members are well aware of the importance of their role in society and are sensitive to all its needs.

However, the fact that the Tariff has not changed much since 2012 has its downsides. Namely, in the last few years the forms of providing legal assistance have evolved. Today there are forms of providing legal assistance which did not exist at that time, or were just at the beginning.

Therefore we believe it is good for the payment of legal assistance in Croatia to be regulated in a flexible way, because the Legal Profession Act itself stipulates the possibility of contracting remuneration in property matters based on success. A similar flexibility characterizes the Tariff, which allows lawyers and their clients to adjust the valuation and calculation of remuneration according to their own needs and particular situation. Numerous examples confirm this. So, for example, the lawyer and client can negotiate the amount of the lawyer's fee by contract in writing, the provision of legal counseling services the lawyer can contract with the legal person in a lump sum, and in property and criminal matters the lawyer and the client can agree to remuneration based on an hourly rate.

It is important to emphasize that certain tariff items can be increased or decreased. Tariff increases by 100% are possible for special professional and specialist knowledge, for cases of particular difficulty or special responsibility for work. It is possible to increase a tariff item when representing more persons in the same proceedings, and if legal assistance is provided abroad, the lawyer may charge the legal assistance provided according to the Tariff in force in such country. A lawyer can also reduce a tariff item by 50%, taking into account all the circumstances of the work performed and the benefits to the client.

The lawyer applies the Tariff in force at the time of payment of the remuneration, as well as the value of the point calculated at the time of payment. This caused many problems in practice as court proceedings often take too long. This is why the changes made in 2012 and 2014 are important, because Tariff Item 48 allows for the remuneration to become due by the completion of enforcement proceedings, or completion of the proceedings themselves, if enforcement is not carried out and if it is not about criminal or misdemeanor proceedings. Remuneration becomes due also upon termination of a power of attorney, revocation of the power of attorney, or termination of the legal services contract. In any case, the lawyer has the right to request an advance payment for performing an individual action. In case of cancellation or revocation of the power of attorney, the lawyer is obliged to issue an invoice to the client within 30 days from the date of cancellation or revocation.

**Legal aid**

The Croatian Bar Association is particularly proud of its elaborated system of providing legal aid.

Lawyers designated by a decision of the CBA as pro bono lawyers are obliged to provide legal assistance to a client, but are not entitled to seek remuneration from that client. Under the Code of Ethics, they may claim remuneration that a represented client has received on the basis of a lawyer's representation at the expense of the opposing party. The Code also recommends granting a discount if the party is in a difficult financial situation, regardless of whether he or she meets the requirements for the provision of legal aid.

Legal aid is granted on the basis of the Legal Profession Act to Homeland War victims and socially challenged persons in legal matters in which they exercise their rights related to their status, and by oral agreement with the Ombudsman for Children, as an institution that is particularly sensitive and takes care of children's rights, such assistance in the form of a lawyer who is not entitled to remuneration in practice, is granted in cases related to the protection of the rights of the child (especially maintenance, but also meetings and gatherings of parents and children, the right to care for and raise a child, etc.).

Every day Croatian lawyers show their concern for vulnerable and challenged groups in society and are an important factor in ensuring legal certainty and the rule of law.

1. [↑](#footnote-ref-1)