

Case law news in Latvia: in its decision, the Senate addresses the issue of the necessity to submit a document certifying the representation of a legal person governed by public law

In the judgment of 6 April, 2023 in case No. SPC-1/2023, the Senate of the Supreme Court in the action brought by the Ministry of Education and Science against the association “Latvian Federation of U-Sports” for the recovery of money has examined the issue of the necessity to submit documents confirming the authorisation of state institutions to the court.

In the main case, the Ministry of Education and Science has brought an action for the recovery of money against the association, and subsequently appealed against the judgment of the Court of First Instance. Due to the lack of the proof of the authorisation, the decision of the judge of the Riga City Vidzeme Regional Court refused to accept the appeal of the Ministry of Education and Science against the judgment of the Riga City Vidzeme Regional Court in the simplified procedure case, based on the first paragraph of Article 4406 of the Civil Procedure Law. In his decision, the judge referred to Article 82, part two of the Civil Procedure Law, which provides that cases of legal persons shall be brought before the court by their officials acting within the scope of powers granted by law, statutes or by-laws, or by other authorised representatives of legal persons, as well as Article 85, part two of the Civil Procedure Law, which provides that the representation of legal persons shall be executed by a written power of attorney or documents confirming the right of an official to represent a legal person without a specific authorisation.

The Chief Prosecutor of the Department for the Protection of Persons and State Rights of the Prosecutor General's Office lodged a protest against the decision, taking the view that the requirement to submit documents certifying such authorisation do not apply to public officials, including, in this case, the Secretary of State.

The decision of the Senate of the Supreme Court upheld the decision of the judge and stated that if the authorisation relied on by the official in question for the existence of the authorisation is not an exception provided for in a normative act, the judge himself is authorised to find the information confirming the authorisation (e.g., Land Registry Law regulation on the authorisation of the owner of immovable property registered in the Land Register), the party to the case (the official acting on behalf of the party to the case – a public person) is obliged to submit to the court a document evidencing such authorisation. Since in the case in question the Secretary of State is an official appointed by a Cabinet of Ministers' Order, notwithstanding the fact that the said Order has been published in the "Latvijas Vēstnesis" publication, the party to the proceedings, as any legal person (whether a private or public law person), was required to attach a document certifying his authorisation to the appeal submitted to the court, which was not done in the present case, thus, the refusal to accept the appeal was justified.