

FOLLOW-UP APPENDIX. Tariff dispute resolution from Dec 2017

12 Dec 2017 **Estonian Supreme Court** makes a final decision on AS Tallinna Vesi's appeal in cassation in the dispute between AS Tallinna Vesi and the **Competition Authority**. This decision cannot be appealed in the Estonian courts.

Main points of the decision in favour of Competition Authority:

- Competition Authority is not bound by the agreement on the water tariffs signed during privatisation between the company and the City of Tallinn.
- Competition Authority had a right to refuse the tariff application of the company on 02 May 2011 (it was based on privatisation agreement).
- Competition Authority had a right to request the submission of a new tariff application in line the Competition Authority's methodology on 10 Oct 2011.
- The interim injunction, which had been granted by the Estonian courts with regard to the Competition Authority's precept to reduce the tariffs, expired.

The only point of the decision in favour of Tallinna Vesi:

- Competition Authority's initial precept stated that the precept would be deemed to have been fulfilled only after the approval of the new tariff application. As the company and Competition Authority may have different opinions about tariff application, the company cannot ensure the approval of tariff application.

28 Feb 2018 - AS Tallinna Vesi submits a new tariff application to the Estonian **Competition Authority**. It follows the Competition Authority's recommendatory methodology, however, it requires further discussions with the Authority. The proposed tariffs are closest to currently applicable water tariffs in force since 2010.

15 May 2018 – AS Tallinna Vesi submits an application to the **European Court of Human Rights** against Estonia. The claim is based on two points

- The company had not had a chance for a fair trial and
- Its fundamental right to property had not been ensured.

22 Aug 2018 – the **European Commission** submits an Application to Intervene in the arbitration between AS Tallinna Vesi, United Utilities (Tallinn) B.V. and Estonian Government as a Non-Disputing Party.

2 Oct 2018 – the arbitration tribunal decides to partly satisfy the Application of **European Commission**. The Commission is invited to submit a single written submission of up to 15 pages by 18 October 2018. Both parties (Claimant and Respondent) may each file comments to the submission by 1st Nov 2018. The Tribunal rejects the Commission's request for access to the documents filed in the case and for attending any further hearing, as no such hearing is either scheduled or foreseen.

23 Oct 2018 - **European Court of Human Rights** decides that the company's application claiming a breach by Estonia of the Company's right to a fair trial and protection of property is not admissible. The court will not continue proceedings concerning Tallinna Vesi's application. The decision is final and the Company does not have a right to appeal.

19 Nov 2018 - **Tallinn Administrative Court** decides to dismiss AS Tallinna Vesi's complaints against the **Competition Authority** for the compensation for loss of tariff income, as well as complaints challenging the refusal to review AS Tallinna Vesi's applications for the approval of water tariffs for 2013-2017. The company has a right to appeal within 30 days to the **Tallinn District Court**.

4 Dec 2018- **Competition Authority** approves Tallinna Vesi's application for the prices of water services and related extra services in Tallinn and Saue service area. However, it refuses to approve the prices of water services. The company can appeal within 30 days. The current prices of water services remain effective until the Competition Authority approves the new prices of water services or establishes the same in another manner.

11 Dec 2018 - Competition Authority requests explanations from Tallinna Vesi regarding the price components serving as a basis of the prices of water services, as part of its supervisory review procedure, linked to the rejection of the tariff application for Tallinn and Saue City on the 4 Dec 2018.

19 Dec 2018 – AS Tallinna Vesi appeals to the Tallinn District Court regarding the 19 Nov 2018 decision of the Tallinn Administrative Court.

3 Jan 2019 – AS Tallinna Vesi challenges Competition Authority's decision dated 4 Dec 2018 refusing to approve the prices of water services. AS Tallinna Vesi does not find Competition Authority's position justified. In Competition Authority's view, the sales revenue should be approximately 10 million euros lower than the figure AS Tallinna Vesi applied for.

12 Feb 2019- Competition Authority does not satisfy AS Tallinna Vesi's challenge from 3 Jan 2019 against the authority's decision not to approve the prices of water services. AS Tallinna Vesi may, within 30 days, file an appeal against the decision to the Tallinn Administrative Court.

14 March 2019 - AS Tallinna Vesi submits a complaint to the Tallinn Administrative Court, related to the Competition Authority's decision not to approve the prices of water services in Tallinn and Saue service area. The complaint relates to the Competition Authority's 12th February 2019 decision not to satisfy AS Tallinna Vesi's challenge against the authority's 4th December 2018 decision not to approve the prices of water services in Tallinn and Saue service area.

19 June 2019 - Tallinn District Court dismisses AS Tallinna Vesi's appeal from 19 Dec 2018 concerning

- AS Tallinna Vesi complaint against the Competition Authority regarding the compensation for loss of tariff income
- the complaints challenging the refusal to review AS Tallinna Vesi's applications for the approval of water tariffs for 2013-2017.

The company has the right to appeal to the Supreme Court within 30 days.

21 June 2019 - International arbitration tribunal decides that to dismiss AS Tallinna Vesi's and United Utilities (Tallinn) B.V.'s claims against the Republic of Estonia. It also decides that

- AS Tallinna Vesi's and United Utilities (Tallinn) B.V. shall cover 25% of respondent's legal costs, fees and expenses (in total approximately €500,000)
- 25% of the expended portion of respondent's share of the advance costs of the arbitration (in total approximately €165,000).

Explanation: Court levels in Estonia:

1. Tallinn Administrative Court
2. Tallinn District Court
3. Supreme Court

Colours used: international arbitration, Competition Authority, European Commission, European Court of Human Rights