



The Rector
Prof. Francesco Mola

Subject: Enactment of the '*Regulations on legal protection for employees and University governing bodies*', approved by the Academic Senate on 23.04.2024.

DR 911/2024 del 7/06/2024

THE RECTOR,

- HAVING REGARD TO** Law No. 168/1989, establishing the M . U.R.S.T., laying down rules on university autonomy;
- HAVING REGARD TO** Law No. 240 of 31.12.2010 *concerning "Rules on the organisation of universities, academic staff and recruitment, as well as delegation to the Government to boost the quality and efficiency of the university system"*;
- HAVING REGARD TO** the Statute of the University of Cagliari, issued by Rectoral Decree No. 339 of 27 March 2012, published in the Official Gazette of the Italian Republic No. 89 of 16 April 2012, as amended and supplemented;
- HAVING REGARD TO** the resolution passed by the Board of Directors on 23.04.2024, whereby a favourable opinion was expressed on the Regulation on legal protection for employees and bodies of the University;
- HAVING REGARD TO** the resolution of the Academic Senate of 23.04.2024, by which the Regulation on legal protection for employees and University Bodies was approved;
- RECOGNISING** therefore that it is necessary to proceed with the enactment of this Regulation;

ISSUES THE FOLLOWING DECREE:

- ART. 1** The "*Rules on legal protection for employees and bodies of the University*" are hereby issued.
- ART. 2** The Rules enter into force as of the date of this Decree and will be published on the University's website.

The Rector
Prof. Francesco Mola
Signed with digital signature



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**REGULATIONS ON LEGAL PROTECTION FOR
UNIVERSITY EMPLOYEES AND GOVERNING BODIES**

INDEX

TITLE I - GENERAL PROVISIONS

Article 1 - Subject matter and scope

Article 2 - Prerequisites

Article 3 - Exclusions

Article 4 - Advance payment of expenses during the course of proceedings

Article 5 - Reimbursement advances after final judgement

Article 6 - Conflict of Interest

TITLE II - PROCEDURAL RULES

Article 7 - Reimbursement Procedure

Article 8 - Employees carrying out health and care activities

Article 9 - Limits for refunds

Article 10 - Verification and Evaluation of Fairness

Article 11 - Limits to the reimbursement of legal costs in administrative - accounting proceedings

Article 12 - Duration and final decision of the proceedings

TITLE III - TRANSITIONAL PROVISION AND REFERENCE

Article 13 - Transitional provisions

Article 14 - Reference

Article 15 - Entry into force



TITLE I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. Pursuant to Article 18 of Law Decree No. 67 of 25 March 1997, converted with amendments into Law No. 135 of 23 May 1997, the purpose of these regulations is to regulate the reimbursement of legal expenses incurred by employees of the University of Cagliari and by the Rector and the Director General as a result of legal proceedings for civil, criminal or administrative-accounting liability brought against them as a consequence of acts and/or facts connected with the performance of their duties or the fulfilment of institutional obligations.
2. These regulations apply to the employees of the University of Cagliari - lecturers, researchers, managers and technical-administrative staff - with permanent or temporary employment contracts, as well as to appointed staff.
3. The aforementioned regulations shall also apply to permanent contract university personnel, to specifically assigned personnel, or to those who are otherwise in service at Cagliari University Hospital and Clinics or at other affiliated health facilities, in accordance with the provisions set forth in Article 8 below.
4. In the case of non-employee appointed managers, it is necessary that the event giving rise to the legal proceedings in which they are involved occurred during their institutional service and that no conflict of interest profiles are found to preclude the reimbursement, following a specific investigation conducted by the competent offices of the University Administration, in accordance with the provisions of article 6 below.
5. The rules governing the reimbursement of legal expenses set out in these Regulations shall apply to the heirs of a deceased employee who has submitted a claim for reimbursement during his lifetime, provided that the relevant legal requirements are met. The fact that the employee did not submit the claim for reimbursement due to the intervening death of the employee shall not constitute grounds for preventing the heirs from subsequently claiming the reimbursement, subject to the expiration of the prescribed period



of the right to reimbursement or the intervening express waiver by the employee of the exercise of the prerogatives provided for by the regulations in force.

Article 2

Pre-requisites

1. The reimbursement of legal expenses shall be subject to the following conditions, on which the University Administration may request the opinion of the State Legal Advisory Service:

- a) official staff or service-based relationship, either permanent or temporary;
- b) direct connection of the facts and acts in question with the performance of the service or the fulfilment of institutional obligations;
- c) a judgement or decision exonerating the person concerned from liability as a result of a civil, criminal or administrative law in respect of the facts alleged;
- d) the prompt disclosure by the staff member of the content of the legal proceedings against him/her;
- e) verification by the lawyer that there is no conflict of interest with the administration.

2. The conditions referred to in paragraph 1 must be fulfilled simultaneously.

3. With regard to criminal proceedings, the right to reimbursement shall be recognised when there is a judgment or order which excludes liability, both objectively and subjectively, and any formula which merely ritualises the settlement of the case shall be inappropriate. This also applies to civil proceedings independent of criminal proceedings.

4. The appropriateness of the sums claimed for reimbursement shall be assessed by the State Legal Advisory Service following a specific request for an opinion from the University Administration. Please refer to article 10 of these regulations.

Article 3

Exclusions

1. Employees shall not be entitled to reimbursement of legal costs unless they have satisfied all the conditions set out in Article 2.

2. The existence of a conflict of interest between the University administration and the employee, as defined in Article 6 of these Regulations, shall preclude the reimbursement of legal fees, even if the conditions set out in Article 2 above have been met.

3. Reimbursement of legal expenses for individuals referenced in Article 1, Paragraph 2 of



these regulations, who are covered by a legal expenses insurance policy at the expense of the University Administration but who have not taken out insurance coverage in accordance with the terms and conditions of the relevant insurance policy, shall be excluded.

4. The University is unable to reimburse legal expenses incurred by postgraduate students or trainees in the course of their training activities, as they are not considered employees of the University Administration.

Article 4

Advance payment of expenses during the course of proceedings

1. The University Administration may, at its discretion, provide financial assistance to members of staff who are engaged in legal proceedings, subject to the approval of the State Legal Advisory Service and in accordance with the provisions set forth in Article 18 of Legislative Decree No. 67 of 25 March 1997, subsequently amended and converted into Law No. 135 of 23 May 1997.

2. The advance may be granted up to a maximum of 70% of the average amount indicated in the official table of legal fees.

3. In order to approve the advance, it is necessary to be able to exclude any potential conflict of interest and to be able to predict, based on a thorough assessment of the case files, that the accused will be acquitted. To this end, the member of staff is required to enclose all relevant documentation, enabling the Administration and the State Legal Advisory Service to assess the case, together with an original receipted invoice.

4. The Administration reserves the right to withhold further advance payments in the following circumstances: during the trial phases following the initial phase; in the event of an aggravation of the charge; in the event of the emergence of new facts necessitating a reassessment of the conflict of interest; and in general, in the event of a lack of funds in the budget.

5. In the event that a final judgement not releasing the reimbursement is issued subsequent to the advance reimbursement, the Administration shall proceed with respect to the employee to the repayment of the sums already paid. In such an instance, repayment shall be made in priority by withholding the corresponding portion from the compensation due to the employee for any reason, including salary or severance pay. Furthermore, the advance may be recovered in accordance with the procedures for seizing and withholding pay.



6. In the event that a staff member is the subject of administrative liability proceedings, no advance shall be granted. Instead, the benefit of reimbursement of legal costs shall be recognized, to the extent that it is liquidated by the Court of Auditors in accordance with the provisions of Article 11 below.

7. In the event of a favourable outcome of the proceedings, as determined by a final decision that excludes the employee's liability, both objectively and subjectively, the employee shall be entitled to receive payment for any sums not yet advanced. This shall apply to both criminal and civil proceedings, regardless of whether they are connected to criminal proceedings.

Article 5

Reimbursement advances after final judgement

1. In civil and criminal proceedings that conclude with a final judgment or ruling excluding liability, both objectively and subjectively, the University Administration may, pending the issuance of the state legal advisory service's opinion on the matter, grant employees in service advance reimbursement of legal expenses, provided that the State Legal Advisory Service issues a negative opinion or an opinion that *revises in peius* the extent of the reimbursement.

Article 6

Conflict of Interest

1. A conflict of interest exists where the applicant has disregarded the pursuit of public and institutional objectives in the performance of his/her duties, by means of behaviour that appears to be suitable or appropriate, or the pursuit of public and institutional objectives in the performance of his/her duties, by substituting personal interests for public objectives, even without causing damage to the assets or image of the university administration.

2. By way of example, a conflict of interest shall in any event be deemed to exist in the case of:

- the presence of facts and/or actions taken and/or omitted, with a finding of wilful misconduct or gross negligence;
- the initiation of legal proceedings against the staff member by the University itself;
- the initiation of legal proceedings against the staff member by another staff member;
- the institution of civil proceedings by the administration against the employee;



- the disciplinary relevance of the alleged act, irrespective of the relationship between disciplinary and criminal proceedings;
- conflict between the aims or consequences of the employee's action and the interest of the University Administration;
- the absence of any connection between the administration and the employee's actions.

3. The University Administration will determine whether a conflict of interest exists by implementing an appropriate measure.

4. The initial assessment of a conflict of interest will be without prejudice to any subsequent reimbursement if, as a result of a final judgement or measure, the initial situation of a conflict of interest is found to be unfounded and the exclusion of all responsibility and liability on the part of the member of staff is established.

TITLE II

PROCEDURAL RULES

Article 7

Refund procedure

1. The persons referred to in article 1, paragraph 2 of these Rules must submit a request for reimbursement of legal expenses incurred as a result of legal proceedings in which any liability in the individual case has been definitively excluded, in civil and/or criminal proceedings. The application must be accompanied by a copy of the judgment or order exonerating the defendant and by the original of the invoice received by the defence counsel.

2. Please note that undocumented activities are excluded from reimbursement in accordance with the current parameters for the payment of legal fees.

3. The appropriateness of the legal costs will be assessed by the State Legal Advisory Service by issuing an opinion in accordance with article 10 of these Rules.

4. Persons benefiting from an insurance policy covering the legal costs of civil, criminal or administrative proceedings, activated by the University Administration at their own expense, are obliged, if they wish to obtain reimbursement of the legal costs incurred, to report the damage and to notify the insurance company and the competent administrative bodies of the first reported act within the time limits and according to the procedures stipulated in the



insurance contract.

5. Failure on the part of the person concerned to stipulate an insurance policy in accordance with the terms and procedures laid down in the insurance contract shall preclude the possibility of obtaining reimbursement from the University Administration.

Article 8

Employees carrying out health and care activities

1. Permanent teaching, research and technical-administrative staff employed by the University Administration, who have a permanent contract with the University, who have specifically assigned duties, or who work at the University Hospital and Clinics of Cagliari or at other bodies with which the University has contractual agreements, may request the reimbursement of legal expenses incurred as a result of legal proceedings brought against them, provided that the acts and/or facts related to the performance of the service or the fulfilment of the institutional obligations that are the subject of the liability judgment are not directly and functionally related to activities of a welfare nature, as such, carried out in the interest of the healthcare institution.

Article 9

Limits for Refunds

1. Reimbursement of legal fees and expenses shall be made by applying the average values of the current parameters for the calculation of professional legal fees, with reference to the date of the invoice, for each stage of the proceedings declared and recognised in the proceedings. The possibility of an increase up to a maximum of 20% is recognised in cases of obvious complexity.

2. In accordance with the prevailing legislation and the established Rules, legal costs incurred in criminal proceedings will be reimbursed, provided that the requisite conditions of eligibility are met and that the work in question has been carried out by a maximum of two lawyers in a documented manner.

3. In civil matters, the reimbursement of legal expenses shall be paid, subject to the conditions of admissibility laid down by the legislation in force and by these Rules, for work carried out, in a documented manner, by no more than two lawyers of confidence in cases of obvious complexity, in cases of considerable importance for the interests of the organisation, and in cases requiring the intervention of several lawyers with different



specialisations.

4. Please be advised that reimbursements are due for extra-judicial defence activities, as well as for extra-judicial consultations, preventive technical assessments, expert opinions and technical consultations of the parties. Reimbursements are payable for arbitration, mediation, assisted negotiation and, in general, for all procedures designed to resolve disputes.

Article 10

Verification and Evaluation of Fairness

1. The verification and assessment of the correctness of the sums claimed for reimbursement will be carried out by the State Legal Advisory Service, by issuing an opinion pursuant to Article 18 of the Decree-Law No. 67 of 25 March 1997, converted, with amendments, into Law No. 135 of 23 May 1997.

Article 11

Limits to the reimbursement of legal costs in administrative - accounting proceedings

1. In proceedings before the Court of Auditors, reimbursement may be made only in the presence of a judgment definitively ruling out administrative-accounting liability on the grounds that there is no damage, no breach of duty, no causal link, and no wilful misconduct or gross negligence.

2. Reimbursement of legal costs shall be made within the limits of the judgment which, by settling the case, determines the amount of the fees and charges payable for the defence of the acquitted employee, at the expense of the administration to which the employee belongs.

3. Therefore, no alternative or additional method to the judicial settlement is allowed, regardless of any agreement with the institution on the choice of defence counsel.

4. In the event of an award of costs by the arbitrator, reimbursement of legal fees is not permitted, even if the conditions set forth in Article 2 of these Rules have been met.

Article 12

Duration and final decision of the proceedings

1. The procedure for the reimbursement of legal expenses shall be completed with the adoption of the measure authorising the expenditure by the competent authority within 30 days of receipt of the relevant application, accompanied by receipted invoices and the



payment transfers made.

2. The period referred to in paragraph 1 above shall be suspended once the opinion on the appropriateness of the expenditure is requested from the State Legal Advisory Service and/or when the University Administration requests additional information from the interested party or from administrative bodies other than the Office in charge of the procedure. In the event of suspension, the time limit referred to in paragraph 1 shall recommence from the date on which the Administration receives the favourable opinion of the State Legal Advisory Service or the requested documents.

3. The procedure for the reimbursement of legal costs shall be concluded by a formal decision at the end of the preliminary investigation carried out by the competent office of the University Administration.

TITLE III

TRANSITIONAL PROVISIONS AND REFERENCE

Article 13

Transitional provisions

1. The provisions of this Regulation shall also apply to legal expenses proceedings commenced no later than five years before the entry into force of this Regulation, to proceedings already commenced and concluded with legal expenses not yet reimbursed and to proceedings not yet concluded.

Article 14

Reference

1. For all matters not expressly governed by these Rules, reference is made to Article 18 of Decree-Law No. 67 of 25 March 1997, converted, with amendments, into Law No. 135 of 23 May 1997, to the provisions of the Code of Civil Procedure, the Code of Criminal Procedure and the Code of Accounting Justice, to the current legal parameters for the payment of professional fees, and to all the relevant regulatory provisions, insofar as they are compatible.

Article 15

Entry into force

1. These Regulations, issued by Rectoral Decree, enter into force on the day following their publication on the website of the University of Cagliari.