



FEDERATION DES BARREAUX D' EUROPE
EUROPEAN BARS FEDERATION
VERBAND EUROPÄISCHER RECHTSANWALTSKAMMERN
FEDERACION DE LOS COLEGIOS DE ABOGADOS DE EUROPA
FEDERAZIONE DEGLI ORDINI FORENSI D' EUROPA

Access to Justice – Commission

MEETING MINUTE

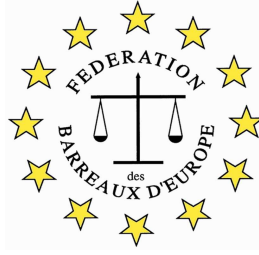
Bologna, May 17thth, 2018

Present members

LUCHERINI	Michele	Lucca	
LATTANZI	Enrico	Lucca	
PARENTI	Lelia	Lucca	
CARMASSI	Ilaria	Lucca	
BRIZIO	Roberto	Torino	
PULLES	Gerrit Jan	Amsterdam	
MASHEV	Alexander	Sofia	
IUGA	Viorel Galin	Cluj	excused
PICCHETTI	Elena	Lucca	excused
TANTINI	Camil	Verona	excused
STERN	Susanne	Celle - Hannover	excused
ANTON BOIX	Josè Ramon	Madrid	excused
PERZANOWSKI	Dariusz	Zielona Góra	excused

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COMMISSION PROJECT

The Commission is carrying on an outline of access to justice, examining how it has been guaranteed in different legal systems.

We have already got contributions on

1 – LEGAL AID

2 – LAWYER'S FEE

and we are currently collecting materials on

3 – MATERIAL EXPENSES

4 - ADR (alternative dispute resolution)

5 – ACCESS TO ENVIRONMENTAL JUSTICE.

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COMMISSION WORKS

During thursday Commission meeting we discussed lawcosts issues in Italy, Netherlands and Bulgaria which just joined us.

Introductory costs

In Italy a claimant needs to pay standard fee for beginning the trial (i.e. the so called “*Contributo Unificato*”) that has replaced all the other costs previously requested.

In Bulgaria instead - according to law on Court fees amended in 2005 - all costs for civil cases are paid before the proceedings begin while in criminal cases costs must be covered by the amount specified in the budget of the respective Court.

In the Netherlands the costs of a case depend on the type of proceedings and the kind of parties to the case (different fees apply to for example companies, private actors), the field of law and the value of a claim.

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A fixed introductory charge has to be paid by each claimant as soon as a civil case is referred to a court and by each defendant who appears before the court.

Apart from the introductory court fees, courts levy no other fees. Administrative law and civil law proceedings involve court fees. Such fees are not mandatory in criminal proceedings.

The applicability and height of the court fees are to be found in several statutes.

Under Dutch law, the general rule is that the losing party has to compensate the costs of the other party. However, with regard to lawyer's fees, a so called 'scheme of liquidated costs' applies; this entails that only specific acts and services of the attorney will be compensated for by a certain fixed (by law) sum.

Other additional costs will not be compensated by the losing party.

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The general rule that 'the loser pays all' is not without exceptions as the court may "compensate" the costs in full or in part in certain situations (especially in the context of family proceedings). In these cases, each party bears its own costs.

The above also applies in administrative cases but not in criminal proceedings.

Lawyers' fees

Italian lawyers can negotiate their fee with client or determine it making reference to schedules provided by law but after recent changes (Bersani Decree) there is no obligation to charge fixed or minimum fees.

Bulgarian Lawyers have the right to remuneration for their labour, fairly agreed in a contract between the attorney-at-law and his or her client. In the absence of a contract, the Bar Council must determine it.



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The remuneration (fee) is regulated in line with the Ordinance of the Supreme Bar Council No 1 from 2004.

During our discussion we understood from our Colleague that there have been recent Court decisions guaranteeing the respect of a minimum fee.

In Holland lawyer's fees are not regulated and the Lawyers Code of Conduct only requires them to charge 'reasonable' fees. The question what is reasonable in a given case depends on many variables and is ultimately subject to the disciplinary or the civil judge.

FURTHER DEVELOPMENTS

We trust that it would be wise to:

- carry on the effort to centralize information on costs of justice at the national (or even at European level),



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- develop e-justice proceedings and to that extent we have joined the new technology Commission on Thursday to get a wider understanding of how e-justice can be an important tool of access to justice or whether it will work out to be something useful for everybody or not.

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The President of the Commission

Avv. Enrico Lattanzi

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