

**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**



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President : Michele Lucherini - Vice President : None - Secretary : Elena Picchetti



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REPORT ABOUT THE COSTS OF JUSTICE AND THE LEGAL AID CONDITIONS

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ACCESS TO JUSTICE COMMISSION
HOSTED BY LUCCA BAR

THE COSTS OF JUSTICE AND THE LEGAL AID CONDITIONS

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Abstract

Access to Justice.

Main topics of observation and study:

1. Costs of justice;
2. Time of justice;
3. Legal aid;
4. Systems of alternative dispute resolution (limits or aids?);
5. Effectiveness of Justice: due process and trial brief.

Project and vision

Access to justice has been defined as “an equal right to participate in every institution where law is debated, created, found, organized, administered, interpreted and applied”.

It doesn't simply mean access to lawyers and courts.

It means access to ombudsmen, advice agencies and the police law; it means public authorities behaving properly; it means everyone having some basic understanding of their rights; it means making law less complex and more intelligible.

Access to justice may mean ensuring physical accessibility to the courthouse, explaining what the law means on the internet, providing translations, finding alternative dispute resolution other than through the courts, offering legal aid and similar steps on order to remove barriers of various kinds.

It means being "treated fairly according to the law and if you are not treated fairly being able to get appropriate redress".

We must ensure equal rights and opportunities to the parties of the case guaranteeing that a FAIR TRAIL will be held in front of an independent and impartial Court.

"Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him".

"Fair Trial" includes:

- the right to be heard by a competent, independent and impartial tribunal
- the right to a public hearing
- the right to be heard within a reasonable time
- the right to counsel
- the right to interpretation
- the right to get a decision within a reasonable time.

In order to reach that goal, we must allow those who do not have sufficient financial resources to meet the costs of a court case or legal representation in order to have the parties right to be heard equally respected.

We must also pursue effective justice developing and amending our procedures in order to remove differences amongst procedural justice and real justice.

Sometimes an unfair decision can be however quick and formally correct in accordance with the provision of law: in this case we have to understand the reason why real justice has not been achieved and act to remove any obstacle which could jeopardize our effort.

All modern legal systems recognize the need to guarantee better access to justice for individuals and companies.

In our European systems different mechanisms exist to help citizens and companies to enforce their rights such as "alternative dispute resolution" and legal aid.

An important form of alternative dispute resolution is mediation ran by the mediator who assists the parties to negotiate a settlement which may concern a variety of domains, with a determined structure, timetable and dynamics.

Mediators use various techniques to open, or improve, dialogue and empathy between disputants, aiming to help the parties reach an agreement and depending on the mediator's skill and training.

According to Italian legal system, mediation is in certain cases compulsory and the procedure has been considered an obstacle to justice rather than a form of guarantee.

Several reasons have been brought to support such negative point of view: the citizen has got to face costs of the mediation procedure and later Court, mediators' background and quality and others.

Today, mediation valuation has changed and its success is really positive.

The FBE Commission will try to understand how our systems ensure effective access to justice - suggesting common solution to improve and guarantee fair trial - because rights and freedoms are vital checks and balances in any civilized society but meaningless without access to justice or the practical means of understanding and enforcing the law of the land.

BULGARIA

Legal aid

According to article 22 of the Legal Aid Act, the conditions for both civil and criminal cases are the same.

It is granted to people who satisfy the eligibility requirements for monthly social assistance and / or have been placed in specialised institutions where social services are provided; it also granted to a foster family, family or friends and relatives with whom a child is placed.

In civil and administrative cases, there are additional requirements as legal aid is granted where - on the basis of evidence presented by the relevant competent authorities - the Court determines that the party is unable to pay for the assistance of a lawyer.

To arrive at such determination, the Court will take into consideration: income of the person or family, property status, family situation, health status, employment status, age and other circumstances.

In the area of criminal justice for defendants, legal aid covers cases in which defence or representation by legal counsel is mandatory.

The legal aid system must, furthermore, cover cases in which a suspect, an accused, a person incriminated, a defendant or a party to a criminal, civil or administrative case is unable to pay for the assistance of a lawyer, wishes to have such assistance, and the interests of justice require this.

There are no specific conditions in the law that apply to victims of crime and defendants therefore general rules for legal aid in criminal cases are applicable.

There are specific exemptions from fees and expenses which are not due by the claimant in case of workers, employees and members of collective claims, labour claims, claims for maintenance, claims filed by a prosecutor, claims for damages from tort from a crime, claims filed by appointed special representatives of a party whose address is not known.

Fees and expenses for proceedings must also not be deposited by natural persons, where the Court recognises that they do not have sufficient resources to pay them.

Lawyer's Fees

According to the Bulgarian Bar Act (article 36, last amended SG 69/05.08.08) attorneys have the right to remuneration for their labour.

The amount of the remuneration must be agreed in a contract between the attorney-at-law and his or her client.

The amount of the contract must be fair, justified and may not be lower than that envisaged for the type of work undertaken (Ordinance of the Supreme Bar Council).

In the absence of a contract, on request by the attorney-at-law or the client, the Bar Council must set the remuneration that may be fixed in absolute terms and/or as a percentage of an amount that may, depending on the outcome of the proceedings, be awarded by the Court.

This excludes remuneration in criminal cases and in civil cases where a non-material interest is involved.

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

Since 2006, in Bulgaria there are private enforcement agents and state functionaries (bailiffs) and their fees are regulated in the Tariff for state fees collected by the Courts.

A private enforcement agent charges an additional fee of 50 percent of the standard fee for serving documents on non-working days and holidays, for sending subpoenas by mail and for making copies of the complaint, notification and papers.

The fees for civil proceedings are provided in section I of the Tariff for state fees collected by the Courts.

The fees are paid before the proceedings begin or the required actions are performed (article 76 of the Civil Procedure Code).

The coverage of costs and remuneration in criminal proceedings is regulated by the Criminal Procedure Code and according to article 187 those costs must be covered by the amount specified in the budget of the respective Institution, except in cases specified by law.

There are no fixed costs in constitutional proceedings because there are no constitutional proceedings in the Bulgarian legal system.

Article 40 (3) of the Bar Act provides that “attorneys-at-law shall be obligated to accurately inform their clients of their rights and obligations”.

There is no explicit obligation to provide information to their clients on anticipated costs in the course of legal proceedings; however, the lawyers’ ethical code implies such an obligation.

Clients rely mainly on their lawyers to inform them about costs because there is no official or unofficial website or other public body that provides such information.

On the website of the Supreme Judicial Council, you can find annual and bi-annual reports of Court activities at all levels and information on the average length of Court proceedings in civil, criminal and administrative cases.

VAT is included in the costs (according to the tariffs and regulations above).

Court Costs

The fees paid by the claimant (including expenses for civil proceedings and remuneration for one attorney (if the party had one) must be paid by the defendant in proportion to the awarded amount of the claim.

If the defendant has provided no reason for the lawsuit, the expenses must be awarded to the claimant.

The defendant also has the right to claim paid expenses in proportion to the denied part of the claim. The defendant is also entitled to expenses if the lawsuit is terminated.

If the claim paid by the party for remuneration of an attorney is excessively high, with respect to the actual legal and factual difficulty of the case, the Court may, upon request of the opposite party, award a smaller amount, but not less than the minimum amount.

Where the case is decided in favour of a person who is exempt from state fees or expenses for proceedings, the sued person must pay all the due fees and expenses.

The respective amounts must be awarded to the Court.

If the claim of a person who has used legal aid is recognised, the paid attorney's remuneration will be awarded to the National Bureau of Legal Aid, in proportion to the recognised part of the claim.

In cases of suing decisions, the person who has used legal aid will owe expenses in proportion to the denied part of the claim.

Attorney remuneration will also be awarded in favour of legal persons and single entrepreneurs, if they have been defended by an employee – legal advisor.

If the case is finalised by an agreement, half of the deposited state fee must be paid back to the claimant.

The expenses of proceedings and the agreement remain, if not otherwise agreed.

Where a prosecutor participates in the lawsuit, the expenses due must be awarded to the state, or be paid by the state.

Costs for criminal proceedings must be covered by amounts specified in the budget of the respective Institution, except in cases specified by law. In cases of crime based on a complaint by a victim and filed with the Court, costs must be deposited in advance by the private complainant.

If they are not, the private complainant must be given a term of seven days to deposit them. In cases based on a complaint by a victim and filed with the Court, costs for evidentiary claims made by the defendant in Court must be covered by the Court's budget.

The amount of costs must be determined by the Court or the body of pre-trial proceedings. The remuneration of witnesses – workers or employees – must be determined by the Court.

The Court must decide on the issue of costs incurred when sentencing or ruling.

Costs for translation during pre-trial proceedings must be at the expense of the respective body; those incurred during Court proceedings will be at the expense of the Court.

Where the accused party is found guilty, the Court will sentence him/her to pay the costs of the trial, including attorney fees and other expenses for the defence counsel appointed ex officio.

These will include the expenses incurred by the private prosecutor and the civil claimant, where the latter have made a request to this effect. In the presence of several sentenced persons, the Court will apportion the costs payable by each of them.

Where the accused party is found not guilty on some charges, the Court will sentence the accused to pay only the costs incurred in connection with the charge under which he/she has been found guilty.

Where the accused is acquitted or criminal proceedings are terminated, all costs in publicly actionable cases remain at the expense of the state, and action raised by a complaint by the victim will be at the expense of the private complainant.

A writ of execution for the costs awarded must be issued by the first instance Court.

The remuneration of the experts shall be determined by the Court, taking in view the work done and the expenses made in accordance with: complicity of the task, competence and qualification of the expert, duration of the fulfilment of the task, quantity of the work done and necessary expenses (such as materials used, consumables, tools, equipment, etc).

The rules for experts apply for translators as well.

Costs for translation during pre-trial criminal proceedings are at the expense of the respective body, and those during Court proceedings are at the expense of the Court.

Mediation and Arbitration (ADR)

Mediation is entirely voluntary. Although mediation provides an alternative means of resolving a dispute without going to court, it is not a prerequisite when initiating court proceedings.

There is no specific code of conduct for mediators. However, provisions on ethical standards are contained in the Law of Mediation and Regulation No. 2 of 15th March 2007, which sets out the conditions and process of approving organisations that provide mediation.

Mediation is not free of charge; payment is subject to agreement between the mediator and the parties involved.

Arbitration in Bulgaria is regulated by the Law on International Commercial Arbitration (LICA). Certain aspects of arbitration are also covered by the Civil Procedure Code (CPC), the Private International Law Code (PILC) and the Commercial Law.

Practice in Bulgaria includes either fixed fee structures for each proceeding, or hourly rates that are often subject to a cap. In each case, the fees take into account the Regulation on the minimum amount of the attorney fees issued by the Supreme Attorney Council of the Bulgarian Bar Association.

The LICA is based on the 1985 UNCITRAL Model Law on International Commercial Arbitration (Model Law). The 2006 amendments to the Model Law have not yet been enacted. The matters regulated by the following provisions of the Model Law are differently regulated under the LICA:

There are a number of arbitration institutions in Bulgaria. The most important among them are the institutions established by the main business organisations in the country, including:

The Court of Arbitration at the Bulgarian Chamber of Commerce and Industry.

The Arbitration Court at the Bulgarian Industrial Association.

The Court of Arbitration at the Confederation of Industrialists and Employers in Bulgaria.

For contracts with an international component parties most commonly agree to have international arbitration administered by the International Chamber of Commerce, Vienna International Arbitral Centre or London Court of International Arbitration.

ENGLAND & WALES

Legal Aid

At the time of the presentation of my last paper in Bilbao, I took what other members of the Exeter delegation considered to be an unduly pessimistic view of the way things were going in England and Wales.

I commented on the high cost of litigation, on the Government's determination to drive down the availability of Legal Aid by restricting it and that Legal Aid deserts were likely to be caused as a result. I also commented from time to time on the level of claims in the Small Claims Court (Legal Aid is not available for claims in the Small Claims Court) and theorised that the Government was likely to raise the Small Claims limit so as to exclude further people from Legal Aid. I also suggested either then or in subsequent meetings that the situation was bound to get worse.

Unfortunately, I have been proved right.

This report has to be in the nature of an Interim Report because the Government set in hand a number of procedures which are ongoing but these are:-

- 1. To reduce the cost of very high cost cases in the Criminal Court.*
- 2. To invite practitioners in criminal cases to enter a tendering process so that, save in very big cities, only one or at the most two firms in an area would be franchised to undertake criminal work.*
- 3. To move the bulk of the small criminal cases from being calculated on a time and cost basis to a fixed fee basis.*
- 4. To restrict the number of firms franchised to provide Legal Aid services.*
- 5. To restrict the number of cases which can be taken under the Civil Procedures.*
- 6. To move Civil Family cases to a fixed fee basis.*

The present coalition Government, having inherited what they say was a disastrous financial situation from the previous administration, are having to apply deep cuts to the spending of virtually all Government departments and the saving expected from the Ministry of Justice (who also administer Legal Aid) being something in the order of 20%.

The Government's first proposals were put into effect by a review by the Community Legal Service of all firms undertaking civil Legal Aid and the removal of a number of smaller firms from the list of franchises. This resulted in a lot of highly respected and effective Legal Aid providers being excluded.

The remaining firms, however, who were told that they would continue to be franchised, were not provided with any larger number of "matter starts" which means essentially that they can only undertake the same number of cases as previously although the number of people seeking help from those firms which retained a Legal Aid franchise is inevitably going to rise.

The Government's proposals were challenged in the Courts which took the view that the Government had failed to consult properly and therefore those firms who had been told that they were no longer franchised had their franchises restored for a year whilst the alleged period of consultation should take place. My firm is one of those firms that were excluded in favour of a larger firm in my area and I know of very much larger firms in the County of Devon who have also been excluded for reasons which appear to be arbitrary and ill thought out.

At the same time as the assault on the provision of Legal Aid has continued by the Government, the Government are making procedural changes in the conduct of both Civil and Criminal litigation, particularly in the Family sphere which are intended to save money but the result of which will be inevitably to distance potential claimants and defendants from the provision of Legal Aid in cases where they would have previously had the benefit of a lawyer.

Whilst these procedures are working through, the Government has again launched an assault on the high cost of civil litigation in England and Wales and has endorsed a raft of proposals suggested by a retired Judge which will substantially reduce the amount of legal fees which can be recovered from an unsuccessful litigant challenging the no-win no-fee agreements which the previous administration had approved in order to take the place of Legal Aid in accident claims and other civil actions for which Legal Aid was removed in 1997.

The Government has now decided that, as I had forecast at least five years ago, the Small Claims Court limit must be increased to £15,000 (I had postulated that it would be £10,000) thus removing them from Legal Aid..

With effect from the 6th April 2011 the Government has decreed that all litigants in the Family Courts will have to go to mediation before they will be allowed to issue process. This again is a move designed to limit the number of contested cases going through the Court.

The Government is also proposing that all Small Claims must go to mediation before the Court process can be issued.

It doesn't take a leap of imagination to see that the next stage will be that all civil claims whether or not they are in the Small Claims Court will have to go to mediation before the Court will accept process.

This is an ongoing situation which will no doubt change but the way forward under this Government is clear and that is:

- 1. The high cost of Civil and Criminal litigation will somehow be capped.*
- 2. The availability of Legal Aid will be substantially reduced as will its profitability.*
- 3. The outcome is likely to drive more people to be litigants in person with the consequence that the Courts will be over-crowded with inexperienced litigants and the inevitable consequence will be a lengthening in the time to trial and time at trial and the reduction of the efficiency of the Courts.*
- 4. Poor litigants will be denied the skills of the lawyers who will no longer be available to poor litigants because of the reduction in Legal Aid.*

Watch this space!

Jeremy J Ferguson

Law: Legal Aid, Sentencing, Punishment of Offenders 2012	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHO	<p>Anyone subject to English law, resident in the country.</p> <p><u>Criminal</u>: Persons who are charged, convicted,</p> <p><u>Civil</u> Family: no legal aid except where domestic violence, forced marriage or need to protect a child from abuse.</p> <p>Housing: no legal aid except where proceedings may result in loss of the home.</p> <p><u>Administrative cases</u>:: No legal aid for administrative tribunals (Employment, Social Security and others) except at Upper Tribunal, Court of Appeal or Supreme Court,</p> <p><u>Public law</u>: Judicial Review.</p>	<p>All legal advice at police station is free. Free advice and representation at the magistrates' court If client did not get legal advice before case comes up at the magistrates' court, free legal advice and representation by the court duty solicitor.</p>		<p>Not after sentence.</p>

Law: Legal Aid, Sentencing, Punishment of Offenders 2012	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
CONDITIONS	<p>Financial test: CIVIL: Gross monthly income (earnings and assets before tax)(all permanent members of the household) must be less than: Gross monthly income below £2,657 or less, followed by check of disposable income by solicitor (deductions for partner, dependent children. Full legal aid if resulting monthly income is less than: £733 People on social security benefit: full legal aid. Capital over £8000: no legal aid. Savings over £3,000 taken into account . Value of equity in the home is taken into account. Sliding scale between £3000 between £8,000 reduces the amount of legal aid, and client has to pay contribution.</p> <p>Further test: must be serious, and chance of success.</p> <p>CRIMINAL: A Representation Order covers representation by a solicitor and, if necessary, by a barrister in criminal cases. To qualify for a Representation Order in the magistrates' court, client must meet financial conditions. Clients in receipt of</p>	<p>Statutory charge. At the end of the case, the legal aid agency will take what has been spent on the solicitor and barrister out of the award and client gets what's left.</p> <p>Children under 18 qualify with no financial test.</p>		<p>Too low income level for people earning.</p> <p>Complicated calculation. Have to prove all earnings, with wage slips over a period of time. Any change must be reported.</p> <p>Contributions (payments) have to be collected from client.</p>

Law: Legal Aid, Sentencing, Punishment of Offenders 2012	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHAT	<p>Legal Help – advice on rights and options and help with negotiating</p> <p>Help at Court – someone speaks at court, but does not formally represent (Duty scheme for housing possession cases)</p> <p>Family Mediation Helps to come to an agreement in a family dispute, resolve problems involving children, money, family home</p> <p>Family Help Representation in family disputes like drawing up a legal agreement</p> <p>Legal representation Representation at court by a solicitor or barrister</p> <p>Controlled Legal Representation Representation at mental health tribunal proceedings or before the First-tier Tribunal in asylum or immigration cases.</p> <p>Immigration and asylum Asylum applications, detention, application for indefinite leave to remain after relationship breakdown because of domestic violence; EC citizen applying to stay in the UK after relationship break down because of domestic violence; applications to stay in</p>	<p>Fees are only paid by Legal Aid Agency to solicitor after the case has finished, and the file has been costed.</p>		<p>Reduced areas of scope, means that many people have to go to court with no representation.</p>

Law: Legal Aid, Sentencing, Punishment of Offenders 2012	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
HOW PROCEDURE	<p>First lawyer after arrest: duty advocate advises at police station or own solicitor, must have a contract with the Legal Aid Agency.</p> <p>Solicitor submits the form completed by the client, plus evidence of income.</p> <p>Client declaration on family composition and incomes, obligation to communicate variations during procedure</p>	<p>No financial test on arrest, all help at police station is free.</p>	<p>Revocation if evidence shows a higher standard of living or not compatible with declared income</p> <p>Exceeding the income limits during the proceedings</p> <p>Second lawyer appointed</p>	<p>Solicitors' firms have to submit a tender for contracts with the Legal Aid Agency. This is a competitive bid system.</p> <p>There is a limited number of contracts.</p>
EFFECTS	<p>Fixed fees for lawyers in criminal cases. No allowance for travel expenses and time waiting at court.</p>	<p>Choice of lawyer: only a solicitor working in a firm which has a contract with the Legal Aid Agency</p> <p>Technical experts on fixed fees only.</p>		<p>Low income for legal aid lawyers.</p> <p>Exclusive contracts means that Ministry of Justice has limited the number of Solicitors who can do legal aid. Fewer legal aid lawyers. Some areas of the UK have no legal aid solicitors available.</p>

Costs of Justice

LAWYER'S FEES (rule of law)	INTRODUCTORY COURT FEES	EXEMPTIONS	FINAL COURT FEES	CRITERIA
<p>This is a very basic overview: For litigation carried out under legal aid (now largely limited to public law family, some housing cases and judicial review, lawyers' fees are prescribed by regulation either as a fixed fee for the whole case or a specified hourly rate. Prescribed legal aid fees are set out in the Legal Aid Remuneration Regulations: http://www.legislation.gov.uk/uksi/2013/422/contents/made If a legally aided litigant is successful in proceedings they may be able to recover costs at a higher 'inter partes' rate although in most family cases the general rule is that each party is responsible for their own costs so the legally aided party's lawyers recover costs at legal aid rates.</p>	<p>There are a wide range of court fees for commencing proceedings depending upon the type of proceedings and the court or tribunal they are issued in. Fees for money claims vary in relation to the value of the claim. Further details can be found here: https://www.gov.uk/court-fees-what-they-are</p>	<p>The Fee Remission Scheme is a means tested scheme which entitles those with low levels of income and capital to have their court fees either waived or to have the fees reduced. Further details about the scheme can be found here: https://www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees</p>	<p>There are no court fees automatically payable on conclusion of a case, but further action required subsequent to a judgment, such as enforcement of the judgment or an application for court assessment of costs will be subject to a fee.</p>	<p>It is not clear how this column is relevant to the jurisdiction of England and Wales.</p>

LAWYER'S FEES (rule of law)	INTRODUCTORY COURT FEES	EXEMPTIONS	FINAL COURT FEES	CRITERIA
<p>In non legally aided cases lawyers costs can be claimed at market rates although in some proceedings fixed costs apply. Costs in civil proceedings are assessed by the courts if not agreed by the parties and can be 'taxed' down by a costs judge if deemed to be excessive.</p> <p>The general principle is (with the exception of most family proceedings) that 'costs follow the cause' i.e. the losing party pays the winners costs. These costs can be awarded on a 'standard' or 'indemnity' basis, the latter being more advantageous to the winner as any doubt about the reasonableness of costs being incurred is resolved in the receiving party's favour.</p>				

Mediation

Mediation can be used to resolve a whole range of everyday civil and commercial disputes including housing issues, business disputes, workplace disputes, small claims, debt claims, boundary disputes, employment disputes, contractual disputes, personal injury and negligence claims as well as community disputes such as nuisance or harassment issues.

Mediation can also be used in relation to family disputes, including divorce, dissolution, civil partnership dissolution and Children Act applications.

It is not restricted to former partners or spouses: for instance, grandparents could use family mediation to get an arrangements for them to continue a relationship with their grandchildren.

In order to ensure the quality of Court - referred mediation in civil disputes (excluding family), the Ministry of Justice and Her Majesty's Courts and Tribunals Service (HMCTS) have established two different processes via which parties can resolve disputes depending on the value of the claim.

The Small Claims Mediation Service is an in - house service provided and run by HMCTS, in relation to cases falling within the small claims track, generally cases under £10000.

For higher value cases, over £10000, the Ministry of Justice has worked with the Civil Mediation Council (CMC) to introduce an accreditation scheme via which mediation provider organisations can apply to be included in the civil mediation directory and for Courts to refer parties to them in any suitable cases.

Civil mediation is not regulated by law, nor is it a prerequisite to Court proceedings: however, parties in civil cases are required to consider mediation seriously before going to Court.

The civil procedure rules (CPR) govern the practice and procedure to be followed in the civil divisions of the Court of Appeal, the High Court and County Courts.

While mediation is entirely voluntary, the civil procedure rules set out the factors to be taken into account when deciding the amount of costs to award having regard to the efforts made, if any, before and during the proceedings in order to try to resolve the dispute.

Consequently, if a winning party has previously refused a reasonable offer of mediation, the Judge could decide that the losing side will not be required to pay the winning side's costs.

There is no national code of conduct for mediators but, in order to be accredited by the CMC, the civil mediation provider must adhere to a code of conduct.

Family Mediation

With regard to family disputes, mediation is self - regulated, consisting of a number of membership organisations or accreditation bodies to which mediators are affiliated.

These bodies have converged to form the Family Mediation Council (FMC) in order to harmonise standards in family mediation.

Another function of the FMC is to represent its founding member organisations and family mediation practitioners at large in the dealings of the profession with government.

The FMC is a non - governmental body and plays a central role among its member organisations, which are all non - governmental subjects (such as ADR Group, Family Mediators Association, National Family Mediation, College of Family Mediators Resolution, The Law Society).

A family mediation service finder is available within the GovUK website (previously known as DirectGov) at Family Mediation Service Finder.

Like the Civil Procedure Rules, the Family Procedure Rules (a comprehensive set of rules that relate to court procedure) encourage the use of alternative dispute resolution (ADR) methods.

The Civil Mediation Directory offers a search facility to find a mediator who is able to provide mediation in a location suitable to the parties.

There is no national training body for civil mediators who are trained by the private sector, which is self-regulated. Family mediators come from a variety of backgrounds, including legal, therapeutic and social services, and there is no legal requirement that they undertake any specialist training.

The cost of mediation varies by provider and is not generally regulated by the state.

In civil matters, the cost of mediation relates to the value of the issues in dispute and the time required to undertake the mediation process.

The rates for the provision of mediation provided via the online civil mediation directory are available from the justice website.

The LawWorks charity provides free mediation to those who cannot afford to pay and it can be contacted on 01483216815 or via the LawWorks Mediation website.

Directive 2008/52/EC implemented in the UK under The Cross-Border Mediation (EU Directive) Regulations 2011 (SI 2011 No 1133) allows those involved in a cross-border dispute - where one party is domiciled in a Member State at the time of the dispute - to request that a written agreement arising from mediation be made enforceable.

Parties to a civil dispute, issued in Court, who have reached an agreement through mediation, may apply to the Court to have their agreement legal endorsed by a Judge.

Once endorsed by a Judge the agreement becomes legally binding and enforceable 'consent order', should the Court be satisfied as to the fairness of the agreement reached.

FRANCE

Legal Aid – Aide Juridictionnelle

The current scheme is governed by the Legal Aid Act (n.91-647 of 10 July 1991) and Decree n.91-1266 of 18 December 1991.

It covers financial support for Court proceedings and out - of - Court settlement proceedings, aid towards advocates' fees in criminal proceedings and access to the law.

It entitles the recipient to free assistance from an advocate or other legal practitioner (bailiff, avoué, notary, auctioneer, etc.) and to exemption from Court costs.

You may receive legal aid if the average of your combined resources for the preceding calendar year (excluding family allowances and certain welfare benefits) does not exceed a certain threshold set by statute each year.

If You exceed the limits, you may still be able to receive legal aid exceptionally if your action is particularly worthy of interest given its subject-matter and the likely cost (section 6 of the 1991 Act).

You are entitled to legal aid if you are a French national or a citizen of the European Union or a foreign national habitually lawfully residing in France.

You are also entitled to legal aid for a case in a French Court if, although you are a foreign national not residing in France, you are a national of a State that has an international or bilateral agreement with France giving entitlement to legal aid.

Legal aid is also given without a residence requirement to foreign nationals who are minors, witnesses, placed under formal examination, charged, accused, convicted or have joined a civil action to a criminal prosecution, or where the action concerns entry and residence in France.

Legal aid is given if the action is not manifestly inadmissible or devoid of substance.

It can be given for all or part of the proceeding and to assist in coming to a settlement before the action comes to trial.

The legal aid application form must be filled in and the supporting documents specified in it must be attached; these concern financial resources (your own and those of people who live in your home), the subject of your application and the Court concerned.

All litigants are free to indicate in that form their own advocate. If you do not know an advocate, one will be designated for you by the President of the Bar for the Regional Court.

If you receive full legal aid, this will cover all the costs of the proceedings, including fees paid direct to the advocate or other practitioners (bailiff, avoué, notary, etc.) and calculated on a fixed scale depending on the type of procedure.

Legal aid can be withdrawn (section 50 of the 1991 Act) during or after the proceedings if:

- aid was obtained on the basis of inaccurate statements or documents;
- in the course of the proceedings you receive such resources that legal aid would not have been given if you had had them at the time of the application;
- as a result of the enforceable judgment you receive such resources that legal aid would not have been given if you had had them at the time of the application; or
- the proceedings that you have commenced with the legal aid is found to be dilatory or abusive.

Legal aid may be given with retroactive effect where a party has commenced an action and won it but legal aid was refused on the ground that the action had no reasonable prospect of success.

Legal aid makes no distinction between civil or criminal matters, or the nature of the dispute. It focuses solely on the applicant's resources when deciding to grant or refuse the benefit.

Legal aid may be full or partial, depending on the resources of the applicant.

Law n°91-647 10/07/1991 Dec.n°91-1266	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHO	<p>FRENCH AND UE CITIZENS - EXTRA UE AND STATELESS CITIZENS ONLY IF CLEARLY IDENTIFIED</p> <p><u>CRIMINAL CASES</u>: charged, convicted, victims, injured, civil liability, injunctions and other preventative measures</p> <p><u>CIVIL, FRAUD, ADMINISTRATIVE CASES</u>: if not manifestly baseless claim, respondent</p> <p><u>IMMIGRATION</u>: as above;</p>	<p>Extra UE citizens: REQUIRED BIRTHPLACE CONSULAR AUTHORITY CERTIFICATE OF FOREIGN EARNINGS</p>	<p>EXTRA UE CITIZENS “SANS-PAPIERS” (except expulsion procedures)</p> <p>LITIGATIONS in EU Member States Courts</p> <p>FRENCH CITIZENS with legal protection contract (or included in insurance contract)</p>	<p>Persons unable to prove their identity</p> <p>Failure to obtain consular certificate</p>
CONDITIONS	<p><u>MONTHLY EARNINGS BEFORE TAXES</u> LESS THAN € 1000 to 2087 depending of the number of persons in house (1 to 4) SUPPORT will be between 25% to 100% of the costs</p>	<p>WELFARE BENEFICIARIES: NO INCOME LIMITS</p> <p>VICTIMS OF CRIMINAL CASES: NO INCOME LIMITS</p>		<p>Significant undeclared earnings</p> <p>Too low income level (out single employment pension)</p> <p>Advantage for tax evasion and false</p>

Law n°91-647 10/07/1991 Dec.n°91-1266	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHAT	CRIMINAL PROCEEDINGS ALTERNATIVE PUNISHMENT INJUNCTIONS Evidential issues in PRIVATE CLAIMS ADMINISTRATIVE JUDGMENT EVERY PROCEDURE REGARDING MINORS	LEGAL EXPENSES ACCORDING TO THE STATE SCHEDULE		
HOW PROCEDURE	FORM SEND with the requested documents in the Legal aid office of the relevant COURT	<u>AUTOMATIC ADMISSION:</u> Office designation MINORS persons admitted to PROTECTION PROGRAM EXPULSION NOT UE CITIZENS persons formally declared UNTRACEABLE LEGAL EXPENSES AFTER JUDGMENT		
EFFECTS	LAWYER AND BAILIFF FEES AND EXPENSES	<u>FREE CHOICE OF LAWYER</u> possible or LAWYER appointed by the Legal aid office of the relevant Court TECHNICAL EXPERT when Judge requires technical study or if later considered relevant	COSTS paid before the decision of the Legal aid office DAMAGES and COMPENSATION	Single phase of proceedings can last several years <u>Months</u> waiting for a judicial decision <u>Months</u> waiting for an effective payment by the MINISTRY OF JUSTICE

Lawyer's Fees

There is no fixed scale as lawyer and client are free to agree on the rate but there are fees indispensable in order to pursue an action and their amount has been set either by legislation or by order of the Court.

These fees might comprise: charges, taxes or levies paid to Court offices or the tax authorities; costs of translating documents (where this is required by statute or by an international undertaking); witness expenses; remuneration of technical specialists fixed outlays (fees for process servers, Court advocates, lawyers); emoluments for Court or public officials; costs incurred in serving a document abroad; social welfare reports ordered in family matters; remuneration of the person appointed by the Courts to represent the interests of the child.

Civil proceedings costs include all sums paid out or owed by the parties before or in the course of an action.

These are, for example: before the opening of the proceedings, the costs of consulting legal advisers, technical specialists and travel costs; in the course of the action, these costs may concern the sum paid to officers of the Court or Court officials and fees paid to the State and consultancy fees: after the proceedings, they may concern the costs of enforcing the judgment.

As there are no provisions for individuals to bring an action before the Constitutional Council under current French rules of procedure, there is no cost to be examined.

Court costs

In civil matters, these voices are enumerated exhaustively in section 695 of the new Code of Civil Procedure and consisting mainly of:

refreshers for advocates (and avoués in the Appeal Court);

Court bailiffs' procedural charges;

judicial examination and investigation charges;

witnesses' allowances (fixed scale).

Court costs are borne by the losing party but the Court may by reasoned decision order the other party to pay them in whole or in part, in which case it specifies how they are to be shared.

The Court gives its decision on an equitable basis, having regard also to the losing party's ability to pay and principles of fairness.

The Court may, of its own motion, state that there are no grounds for making such an order for reasons based on the same consideration.

In criminal proceedings the State bears the costs of Justice.

People convicted of an offence must pay a fixed charge for the proceedings, based on the seriousness of the offence.

Before the small claims and summary offences Court and the district Court, the parties are not bound to instruct a lawyer.

If the value of the action is less than EUR 4 000, matters may be brought before these Courts using a simplified procedure which dispenses with the parties' requirement to use a Court appointed process server.

Experts' fees

In civil matters, remuneration of experts appointed by the Court is set by order of the Court.

If the Court instructs an expert, it will set a retainer from which the remuneration will be deducted and the amount of it will be as close as possible to the expected final payment.

The Court will designate the party or parties who must lodge the retainer with the Court office; once the expert's report is lodged, the Court will set the remuneration, having particular regard to enquiries carried out, respect for time limits and quality of the work done.

The Court will authorize the expert to return the appropriate amounts lodged at the Court office, or as appropriate, payment of additional sums to the expert, indicating the party or parties who are to be responsible for this.

The judgment or decision bringing an end to the action gives a ruling on liability for remunerating the expert.

As a general rule, this liability falls to the losing party, unless the Court, through a reasoned decision, makes the other party liable for part or all of this fee.

Translators' and interpreters' fees

These fees are the responsibility of the losing party, unless the Court, through a reasoned decision, makes the other party liable for part or all of this fee.

Mediation

Order (ordonnance) No 2011-1540 of 16 November 2011 has transposed EU Directive 2008/52/EC into French law.

This Order of 16 November 2011 amends the Act (loi) of 8 February 1995 so as to establish a general framework for mediation.

The system defines the concept of mediation and the conditions that the mediator must satisfy confirming the principle of confidentiality, which is vital to the success of the mediation process.

Parties may refer a matter to mediation in any area of law, provided the mediation does not undermine rules of public policy governing social and economic conduct (ordre public de direction).

Mediation is used most often in family cases at the Family Court, through a family mediator (médiateur familial) and in small claims cases before the local Court or the district Court, through a legal conciliator (conciliateur de justice).

The Order confirms the principle that at any stage in the proceedings a Court hearing a dispute may designate a mediator, who in practice may also be a legal conciliator (conciliateur de justice).

If Court proceedings have already been brought, the Court hearing the dispute may - with the consent of the parties - appoint a third party to ascertain the parties' positions and to compare and contrast their points of view with a view to enabling them to find a solution to the dispute' (Article 131-1 of the Code of Civil Procedure).

Where the parties have not agreed to mediation, the Court may direct them to meet a mediator in order to have the purpose and operation of mediation explained to them.

In France there is neither central or government authority responsible for regulating the profession of mediator nor current plans to create one.

There is no national code of conduct for mediators and no national, official website relating to mediation.

The Paris Chamber of Commerce and Industry (Chambre de commerce et d'industrie) has established a code of good conduct, and supervises compliance with it itself.

At present French legislation does not make any provision for specific training in mediation, except in family matters, where a family mediator's diploma was introduced by an order dated 2 December 2003 and a ministerial order dated 12 February 2004.

The legislation provides for training in family mediation to be given by approved centres, and a diploma to be awarded by the regional prefect after completion of training or a certification process validating the knowledge and experience acquired by the mediator.

When parties resort to mediation as an alternative method of resolving disputes, whether in Court proceedings or out of Court, fees have to be paid.

If the parties resort to mediation in the course of Court proceedings, the mediator's fee may be covered by legal aid.

It will in any event be determined by the judge assessing legal costs (magistrat taxateur) after the mediator's role is over, on presentation of a report or a statement of expenses (Article 119 of Order (décret) No 91-1266 of 19 December 1991).

GERMANY

Legal Aid

§§ 114 ff ZPO civil §§ 140 ff StPO criminal	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHO	Every natural person; Every legal person;	For a natural person no residence in Germany needed:	Not for a legal person, if the shareholder can pay the fees;	
CONDITIONS	<ul style="list-style-type: none"> - The applicant must be needy - chance of success - the pursuit of rights must not be wilful 	Income limit is orientated to the welfare, assets will be considered; For a single person the limit is after subtract lease, heating, insurance, 462 €/ month + 210€/ month if employed; If the income is higher and he is not able to pay, the applicant can reimburse the state by instalments		Complicated calculation; Any change must be reported; if the financial situation improves the applicant has to pay more
WHAT	Fees of your lawyer; Court fees;	At a value of the claim higher than 4.000 €, the fees for the lawyer are less than normal fees; in addition they are capped at a value of the claim of 30.000 €, even if the value of the claim is higher;	The fees of the opposing lawyer are not payed;	Civil: Although the lawyer is payed so much less and the fees are capped at the value of the claim at 30.000 €, his liability is still 100%; the maximum fee is 1150 €. Criminal normally: preliminary proceedings 292,00 € lump fee post etc. 20,00 € judicial proceedings 352,00 € lump fee post etc. 20,00 € sum 684,00 €

§§ 114 ff ZPO civil §§ 140 ff StPO criminal	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
FOR WHAT	<ul style="list-style-type: none"> - <u>Civil cases (+)</u> - <u>Insolvency proceeding</u>: only to avert bankruptcy, not for the proceedings itself, process costs are deferred - <u>Criminal</u>: only for necessary defence, that is: imminent occupational ban, indictable offence (the law provides more than one year prison minimum penalty), trial at higher court, investigative custody - <u>victim of a crime</u>: if allowed to accessory prosecution - <u>Family (+)</u> - <u>Administrative cases (+)</u> 	<u>Criminal</u> : It is not relevant if the client is needy, he will get a assigned counsel; after conviction the convict has to reimburse the fees of court and lawyer		
HOW PROCEDURE	<ul style="list-style-type: none"> - For extrajudicial legal advice: the county court at the residence decides about the application; - legal advice for a lawsuit: the responsible judge for the case decides, especially about chances of success; - criminal: the court appoints a duty counsel, if the defendant is not able to defend himself 	<ul style="list-style-type: none"> - extrajudicial legal advice: the lawyer can only refuse the case if he has an important reason, otherwise he has to take the case; the client pays a lump sum of 15 €; - Every lawyer can give legal aid; - In a civil case normally the lawyer files the application for the client 		If legal aid is not granted the client has to pay the lawyer

§§ 114 ff ZPO civil §§ 140 ff StPO criminal	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
EFFECTS	In my estimation the system gives a good range to get legal assistance also for people with low or no income			<p>The costs for the legal aid are paid by the federal state;</p> <p>Because of the high costs of the legal aid, it is very difficult to adapt the legal table of fees for the lawyers. For the last adaptation we had to wait for several years.</p>

Costs of Justice

Costs of civil procedure in Germany

Value until	500,00 €	1.000,00 €	2.000,00 €	3.000,00 €	4.000,00 €	5.000,00 €	22.000,00 €	110.000,00 €	500.000,00 €	1.000.000,00 €	2.000.000,00 €	4.000.000,00 €	8.000.000,00 €
1st Instance													
1 Lawyer	157,00 €	262,00 €	470,00 €	622,00 €	774,00 €	925,00 €	2.231,00 €	4.495,00 €	9.582,00 €	14.045,00 €	22.970,00 €	40.820,00 €	76.520,00 €
Court Fee	105,00 €	159,00 €	267,00 €	324,00 €	381,00 €	438,00 €	1.035,00 €	3.078,00 €	10.608,00 €	16.008,00 €	26.808,00 €	48.408,00 €	91.608,00 €
Risk in total	420,00 €	683,00 €	1.207,00 €	1.568,00 €	1.929,00 €	2.288,00 €	5.497,00 €	12.068,00 €	29.772,00 €	44.098,00 €	72.748,00 €	130.048,00 €	244.648,00 €
2nd Instance													
1 Lawyer	174,00 €	290,00 €	524,00 €	694,00 €	863,00 €	1.033,00 €	2.496,00 €	5.032,00 €	10.730,00 €	15.728,00 €	25.724,00 €	45.716,00 €	85.699,00 €
Court Fee	140,00 €	212,00 €	356,00 €	432,00 €	508,00 €	584,00 €	1.380,00 €	4.104,00 €	14.144,00 €	21.344,00 €	35.744,00 €	64.544,00 €	122.144,00 €
Risk in total	488,00 €	792,00 €	1.404,00 €	1.820,00 €	2.234,00 €	2.650,00 €	6.372,00 €	14.168,00 €	35.604,00 €	52.800,00 €	87.192,00 €	155.976,00 €	293.542,00 €
3rd Instance													
1 Lawyer	227,00 €	385,00 €	702,00 €	933,00 €	1.163,00 €	1.394,00 €	3.379,00 €	6.820,00 €	14.553,00 €	21.336,00 €	34.902,00 €	62.034,00 €	116.298,00 €
Court Fee	175,00 €	265,00 €	445,00 €	540,00 €	635,00 €	730,00 €	1.725,00 €	5.130,00 €	17.680,00 €	26.680,00 €	44.680,00 €	80.680,00 €	152.680,00 €
Risk in total	629,00 €	1.035,00 €	1.849,00 €	2.406,00 €	2.961,00 €	3.518,00 €	8.483,00 €	18.770,00 €	46.786,00 €	69.352,00 €	114.484,00 €	204.748,00 €	385.276,00 €

Risk in total means that you loose the case and pay 2 lawyers and the court fees.
After the value of 5.000 € we have more single steps that are not shown to keep it more clearly.

Arbitration costs

Arbitration Rules from the The German Institution of Arbitration (in force as of 1 March 2016)

1. Amount in **dispute up to 5,000.00 €**

The fee for the chairman of the arbitral tribunal or for a sole arbitrator shall amount to 1,365.00 € and for each co-arbitrator 1,050.00 €

2. Amounts in dispute **from 5,000.00 € to 50.000,00 €**

Amount in dispute	Fee for chairman of arbitral tribunal/ sole arbitrator	Fee for each co-arbitrator
up to 6.000,00 EUR	1.560,00 EUR	1.200,00 EUR
up to 7.000,00 EUR	1.755,00 EUR	1.350,00 EUR
up to 8.000,00 EUR	1.950,00 EUR	1.500,00 EUR
up to 9.000,00 EUR	2.145,00 EUR	1.650,00 EUR
up to 10.000,00 EUR	2.340,00 EUR	1.800,00 EUR
up to 12.500,00 EUR	2.535,00 EUR	1.950,00 EUR
up to 15.000,00 EUR	2.730,00 EUR	2.100,00 EUR
up to 17.500,00 EUR	2.925,00 EUR	2.250,00 EUR
up to 20.000,00 EUR	3.120,00 EUR	2.400,00 EUR
up to 22.500,00 EUR	3.315,00 EUR	2.550,00 EUR
up to 25.000,00 EUR	3.510,00 EUR	2.700,00 EUR
up to 30.000,00 EUR	3.705,00 EUR	2.850,00 EUR
bis 35.000,00 EUR	3.900,00 EUR	3.000,00 EUR

up to 40.000,00 EUR	4.095,00 EUR	3.150,00 EUR
up to 45.000,00 EUR	4.290,00 EUR	3.300,00 EUR
up to 50.000,00 EUR	4.485,00 EUR	3.450,00 EUR

In the case of amounts in **dispute exceeding 50.000,00 €**, the fee for each co-arbitrator is calculated as follows:

3. For amounts more than 50,000.00 € up to 500,000.00 €
a fee of 3,450.00 € plus 2% of the amount exceeding 50.000,00 €;
4. For amounts more than 500,000.00 € up to 1,000,000.00 €
a fee of 12,450.00 € plus 1.4% of the amount exceeding 500,000.00 €;
5. For amounts more than 1,000,000.00 € up to 2,000,000.00 €
a fee of 19,450.00 € plus 1% of the amount exceeding 1,000,000.00 €;
6. For amounts more than 2,000,000.00 € up to 5,000,000.00 €
a fee of 29,450.00 € plus 0.5% of the amount exceeding 2,000,000.00 €;
7. For amounts more than 5,000,000.00 € up to 10,000,000.00 €
a fee of 44,450.00 € plus 0.3% of the amount exceeding 5,000,000.00 €;
8. For amounts more than 10,000,000.00 € up to 50,000,000.00 €
a fee of 59,450.00 € plus 0.1% of the amount exceeding 10,000,000.00 €;
9. For amounts more than 50,000,000.00 € up to 100,000,000.00 €
a fee of 99,450.00 € plus 0.06% of the amount exceeding 50,000,000.00 €;
10. For amounts more than 100,000,000.00 €
a fee of 129,450.00 € plus 0.05% of the amount exceeding 100,000,000.00 € up to an amount of 650,000,000.00 €; any amount exceeding the additional 650,000,000.00 € shall not affect the calculation of the fee.

11. If more than two parties are involved in the arbitral proceedings, the amounts of the arbitrators' fees pursuant to this schedule are increased by 20% for each additional party. The arbitrators' fees are increased by no more than 50% in total;
12. Upon filing of a counterclaim, the Appointing Committee of the DIS, if so requested by the arbitral tribunal and after having consulted the parties, may determine that the arbitrators' fees pursuant to Nos. 1) - 11) shall be calculated separately on the basis of the value of the claim and counterclaim.
13. In cases of high legal and/or factual complexity and in particular with regard to the time spent, the Appointing Committee of the DIS, if so requested by the arbitral tribunal and after having consulted the parties, may determine an appropriate increase of the arbitrators' fees of up to 50% of the fee pursuant to Nos. 1) - 12);
14. If a request for an interim measure of protection has been made to the arbitral tribunal pursuant to section 20, the arbitrators' fee shall be increased by 30% of the fee at the time of the request;
15. For the chairman of the tribunal and the sole arbitrator, fees are calculated by adding 30% to the fees pursuant to 3) to 14);
16. Reimbursement of expenses pursuant to Sec. 40 sub. 1 is calculated on the basis of such guidelines as are issued by the DIS in force at the time of commencement of the arbitral proceedings;
17. The amount of the provisional advance for the arbitral tribunal levied by the DIS Secretariat upon filing of the statement of claim pursuant to section 7 sub. 1 corresponds to the fees for a co-arbitrator pursuant to this schedule;
18. :
 - a) In the case of an amount in dispute up to 50,000.00 € the DIS administrative fee amounts to 2% of the amount in dispute; in case of an amount in dispute more than 50,000.00 € and up to 1,000,000.00 € the DIS administrative fee amounts to 1,000.00 € plus 1% of the amount exceeding 50,000.00 € in the case of the amount in dispute exceeding 1,000,000.00 €, the administrative fee amounts to 10,500.00 € plus 0,5% of the amount exceeding 1,000,000.00 €. The minimum DIS administrative fee is 350.00 €; the maximum fee is 40,000.00 €;

- b) Upon filing a counterclaim, the amounts in dispute of claim and counterclaim are added for the purpose of assessing the DIS administrative fee. The DIS administrative fee for a counterclaim is calculated by deducting the DIS administrative fee from the administrative assessed according to the increased overall amount in dispute;
- c) The minimum administrative fee for a counterclaim is 350.00 €, the maximum fee for claim and counterclaim is 60,000.00 €;
- d) If more than two parties are involved in the arbitral proceedings, the DIS administrative fee set forth in Nos. 18 a) – c) is increased by 20% for each additional party. The additional fee shall not exceed €15,000.00. The sum of the administrative fee calculated pursuant to Nos. 18 a) - c) and the additional fee to this No. 18 d) shall be the DIS administrative fee.
- e) Where the arbitral proceedings are terminated prior to the constitution of the arbitral tribunal, the DIS may, at its own discretion, decrease the DIS administrative fee calculated pursuant to Nos. 18 a) - d) by a maximum of 50% of such fee.

19. If a statement of claim, a counterclaim or any other written pleadings is submitted to the DIS in any language other than German, English or French, the DIS may arrange for a translation. The costs for such translation may be added to the DIS administrative fee levied by the DIS pursuant to 15).

The German Institution of Arbitration (die Deutsche Institution für Schiedsgerichtsbarkeit e.V.) advises all parties wishing to select a dispute resolution procedure for future disputes and for this purpose wishing to agree upon conducting the conflict management proceedings pursuant to the DIS Conflict Management Rules already at the conclusion of the contract, to use the following conflict management agreement:

"With respect to all disputes arising out of or in connection with the contract (... description of the contract ...) and for whose resolution the parties have not yet agreed on a dispute resolution procedure, conflict management proceedings pursuant to the Conflict Management Rules of the German Institution of Arbitration (DIS) (DIS-KMO) shall be conducted with the purpose of selecting a dispute resolution procedure."

It shall be noted that an agreement on the conflict management proceedings pursuant to the DIS Conflict Management Rules may be concluded any time, also with regard to already existing disputes.

Note:

In Germany you do not have fees for Arbitration in the German Civil Code.

If Parties decide to have recourse to arbitration they also have to decide for the rules of arbitration. Either they develop them themselves or they select a dispute resolution procedure, for example from the German Institution of Arbitration (die Deutsche Institution für Schiedsgerichtsbarkeit e.V.). This is registered society and they provide the parties with Conflict Management Rules and also with a table for the fee for the chairman of the arbitral tribunal. Enclosed please find the example for this. But there are also other societies that provide different rules.

In the German Civil Code provides the parties with additional rules for the procedure if the parties didn't regulated single items.

Mediation

Generally speaking, when there is no formal legal requirement that a particular kind of dispute or matter must be dealt with in Court, mediation is always permitted.

The most common areas for mediation are family law, inheritance law and commercial law.

On 26 July 2012, the Mediation Act (Mediationsgesetz) entered into force in Germany transposing into German law the European Mediation Directive (Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008).

While the EU Directive provides only for cross - border civil and commercial disputes, the German Act covers all forms of mediation, irrespective of the form of dispute or the place of residence of the parties concerned.

It only establishes general guidelines, as mediators and parties concerned need significant scope for manoeuvre during the mediation process.

Mediators are independent and impartial persons, without decision - making power, who guide the parties concerned through the mediation procedure.

The Act deliberately avoids establishing a precise code of conduct for the mediation procedure.

However, it does set out a number of disclosure obligations and restrictions on activity, to protect the independence and impartiality of the mediator profession: moreover, legislation formally obliges mediators to maintain strict client confidentiality.

The Act promotes mutual dispute settlement by including a number of different incentives in the official procedural codes.

When parties bring an action in a civil Court, they will have to say whether they have already sought to resolve the issue via out - of -Court measures, such as mediation, and whether there are specific reasons for not considering this course of action.

The Court may furthermore suggest that the parties try to settle the conflict via mediation, or another form of out - of - Court settlement; if the parties refuse to apply this option, the Court may choose to suspend the proceedings.

In principle, a mediation agreement can be enforced with the assistance of a lawyer or notary.

Legal aid for mediation is not envisaged for the time being.

There is no legislation defining the professional profile of a mediator who is responsible for ensuring that he / she has the necessary knowledge and experience (through suitable training and further development courses) to reliably guide parties through the mediation process.

There is no set minimum age, and no requirement for example that a mediator must have followed a University - level course of study.

Mediator training is currently offered by associations, organisations, universities, companies and individuals.

Mediation is not free of charge; payment is subject to agreement between the private mediator and the parties concerned but there is no legislation governing fees for mediation, nor are there statistics on the costs.

ITALY

The Costs of Justice

The costs of justice are determined by the following items:

1. Costs of introducing the cause or process;
2. Lawyer's fees;
3. Taxation of the economic transaction determined by the judgment (for example: transfer of property, payment of sums, determination or termination of contract, etc.).

Costs of introducing the cause or process

Proceeding costs (such as Court fees, bailiff fees, expertises, costs for enforcing the judgement) are provided by law (Presidential Decree of 30 May 2002, No. 115).

In order to introduce a litigation, one has to pay a pre-determined amount - proportionate to the value of the claim - called "Contributo Unificato" (C.U.), ruled by Article 9 of Decree 115/02.

It has replaced since then all the other costs which were requested for criminal, civil and administrative procedures.

It includes the payment of all stamp taxes, registration taxes, chancery taxes and the expenses for the designation of a public officer during a trial.

The payment of the Contributo Unificato is required before the case is filed and it has to be paid by the party who enters the case, lodges the initial appeal or, in enforcement proceedings, or submits an application for assignment or sale.

Some particular proceedings, relating to the following subjects, are **exempted**:

- Judicial separations (provisions related to minors and proprietary relations between spouses)
- preventive proceedings;
- land registry proceedings,
- proceedings to enforce delivery and release,
- proceedings related to child maintenance payments,
- all proceedings concerning children (e.g. proceedings regarding parental responsibility)
- rules on competence and jurisdiction.

Legal Aid

The right of defense is considered by Italian legal system as a universally recognized right, irrespective of the nationality of the person concerned or the income he has earned.

In order to enforce this principle, Italian law has established a Legal AID System that allows people without financial resources to benefit equally from legal assistance.

The right to defense is recognized by two fundamental documents:

- the Italian Constitutional Charter;
- the Treaty for the Constitution of the European Union.

Italian Constitution, Art. 24, states that everyone can take legal action for the protection of their legitimate rights and interests.

Defense is inviolable right in every state and grade of the proceedings.

People are assured of the lack of resources, with special institutions, to act and defend themselves in front at any jurisdiction.

The law determines the conditions and the ways for the correction of judicial errors.

In addition to being constitutionally recognized, the right to defense is also constitutionally guaranteed to those who do not have sufficient income and is regulated in Part III of Law 30 May 2002, no. 115 (about Costs of Justice).

European Constitution, Article II-107, regulates the right to an effective remedy and to an impartial judge.

Everyone whose rights and freedoms - guaranteed by Union law - have been violated, has the right to an effective remedy in front of a judge.

Everyone has the right to have his case been examined fairly, publicly and within a reasonable time by an independent and impartial judge, pre-established by law.

Everyone has the right to be counseled, defended and represented.

Those who do not have sufficient means are granted patronage at the expense of the state, if this is necessary to ensure effective access to justice.

In Italian law, Legal AID is provided for the criminal process, civil proceedings, administrative process, accounting process, taxation process and voluntary jurisdiction.

Legal AID is also set for the enforcement process, review processes, revocation, third party opposition, in the processes of application of security or prevention measures, where the assistance of the defense counsel or technical consultant is provided.

Admission to Legal AID System is valid for each degree and process status, also for all those processes, derivatives and incidents.

With the introduction in Italy of the institutes of "mediation" and "assisted negotiation", in some cases, as a condition of legality, access to justice risks to be compromise, as the Legal AID System.

Legal Aid - tables

Law 30/07/1990 n. 217 D.P.R. 30/05/2002 n. 115	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHO	<p>ITALIAN AND UE CITIZENS - EXTRA UE AND STATELESS CITIZENS ONLY IF CLEARLY IDENTIFIED</p> <p><u>CRIMINAL CASES</u>: charged, convicted, victims, injured, civil liability, injunctions and other preventative measures</p> <p><u>CIVIL, FRAUD, ADMINISTRATIVE CASES</u>: if not manifestly baseless claim, respondent</p> <p><u>IMMIGRATION</u>: as above; always automatic only for expulsion procedures</p>	<p>Extra UE citizens: REQUIRED BIRTHPLACE CONSULAR AUTHORITY CERTIFICATE OF FOREIGN EARNINGS</p>	<p>EXTRA UE CITIZENS "SANS-PAPIERS" (except expulsion procedures)</p> <p>PREVIOUSLY SENTENCED FOR ORGANIZED CRIMES OR DECLARED BELONGING TO CRIMINAL ASSOCIATIONS, LARGE AMOUNT OF NARCOTICS Unless assessed without means</p>	<p>Persons unable to prove their identity</p> <p>Failure to obtain consular certificate</p>
CONDITIONS	<p><u>TOTAL EARNINGS BEFORE TAXES AND ALSO IF NOT DECLARED OR ILLICIT INCOMES OF THE WHOLE FAMILY</u> (all permanent members of the household) <u>LESS THAN</u> € 11.528,41</p>	<p>CRIMINAL CASES: Added € 1.032,91 FOR EVERY FURTHER PERSON OF THE FAMILY</p> <p>CRIMINAL CASES: THE INCOME OF ANY MEMBER OF THE FAMILY WITH A CONFLICT OF INTEREST IS NOT COUNTED</p>	<p>NO INCOME LIMITS FOR VICTIMS OF Sexual violence Genital mutilation Domestic violence Stalking</p>	<p>Significant undeclared earnings</p> <p>Too low income level (out single employment pension)</p> <p>Advantage for tax evasion and false</p>

Law 30/07/1990 n. 217 D.P.R. 30/05/2002 n. 115		RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHAT	CRIMINAL PROCEEDINGS ALTERNATIVE PUNISHMENT INJUNCTIONS	Evidential issues in PRIVATE CLAIMS ADMINISTRATIVE JUDGMENT TAX AND ACCOUNTING PROCEDURE VOLUNTARY JURISDICTION EVERY PROCEDURE REGARDING MINORS	LEGAL EXPENSES RECOGNIZED ONLY AFTER FILING	Persons Sentenced for organized crime	EXCLUDED Legal counselling Legal assistance for detained persons Post judgment counselling
HOW PROCEDURE	DEMAND TO THE PROCEEDING MAGISTRATE Self declaration on family composition and incomes, obligation to communicate variations during procedure	AUTOMATIC ADMISSION: Office designation MINORS persons admitted to PROTECTION PROGRAM EXPULSION NOT UE CITIZENS persons formally declared UNTRACEABLE LEGAL EXPENSES ONLY AFTER JUDGMENT Only if Court decides and if compulsory payment by the	EXCLUSION OR REVOCATION: If evidence shows a higher standard of living or not compatible with declared income Exceeding the income limits during the proceedings Second lawyer appointed		Extraordinary fees resulting from undue Revenue inspections
	PRIVATE INITIATIVES: <u>previous check</u> of not manifestly baseless claim of the demand <u>by the BAR</u>				

Law 30/07/1990 n. 217 D.P.R. 30/05/2002 n. 115	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
EFFECTS	ONLY LAWYER FEES AND EXPENSES, NO FEES OTHERWISE REQUIRED	<u>FREE CHOICE OF LAWYER</u> previously registered in list “ <i>ad hoc</i> ” if more than 2 years experienced and without disciplinary sanctions <u>TECHNICAL EXPERT</u> when Judge requires technical study or if later considered relevant	<u>AMOUNT FEES</u> decided by proceeding Magistrate <u>REDUCED PAYMENT</u> of a third or the ordinary amount Not recognized expenses outside County	Single phase of proceedings can last several years <u>Months</u> waiting for a judicial decision <u>Years</u> waiting for an effective payment by the MINISTRY OF JUSTICE

Lawyer's Fees

In the past, the lawyer's fee was determinate by law in an equal way for each of the parties.

This was a guarantee of the pair position of the parties in front of the Judge.

The fixed price system has been demolished to pursue liberalization.

Today the lawyer's compensation is determined by contract and influenced by the client's economic strength.

The result was to weaken the parity of the parties in the process:

- the strong part becomes stronger because it can pay less for its defender;
- the weak side becomes even weaker because it has no contractual strength with its defender.

Attorneys have become workers without pay security and they have lost economic and contractual power and jeopardized their independence.

There is a government bill to prevent excessive differences in the determination of the compensation compared to the parameters applied to the losing party's condemnation in the trial (D.M. 55/2014 - <http://>

www.consiglionazionaleforense.it/documents/20182/42522/DECRETO+10+marzo+2014%2C+n+55/f8a098ec-12f2-4989-9c5a-ec79b2db0a44)

- Law Decree 27 November 1933, No. 1578, regarding the regulation on lawyers' profession;
- Italian Civil Code (articles 2229-2231);
- Italian Civil Procedure Code (articles 91-98);
- Ministry Decree 8 April 2004 No. 127;
- Lawyers Ethic Code/self-regulation Code adopted by the Lawyers National Association called CNF (Consiglio Nazionale Forense);
- Law 4 August 2006 No. 248.
- D.M. No. 55/2014.

Civil process lawyer's Fees

		Justice of Peace				Court							
Value until		1.100,00 €	5.200,00 €	20.000,00 €		26.000,00 €	52.000,00 €	260.000,00 €	520.000,00 €	1.000.000,00 €	2.000.000,00 €	4.000.000,00 €	8.000.000,00 €
Defense fee													
Case study		65,00 €	225,00 €	405,00 €		875,00 €	1.620,00 €	2.430,00 €	3.375,00 €	4.388,00 €	5.704,00 €	7.415,00 €	9.640,00 €
Introduction of the cuse		65,00 €	240,00 €	335,00 €		740,00 €	1.147,00 €	1.550,00 €	2.227,00 €	2.895,00 €	3.764,00 €	4.893,00 €	11.450,00 €
Handling of the case		65,00 €	335,00 €	540,00 €		1.600,00 €	1.720,00 €	5.400,00 €	9.915,00 €	12.890,00 €	16.757,00 €	21.784,00 €	56.638,00 €
Determination of the case		135,00 €	405,00 €	710,00 €		1.620,00 €	2.767,00 €	4.050,00 €	5.870,00 €	7.631,00 €	9.920,00 €	12.896,00 €	30.177,00 €
Total		330,00 €	1.205,00 €	1.990,00 €		4.835,00 €	7.254,00 €	13.430,00 €	21.387,00 €	27.804,00 €	36.145,00 €	46.988,00 €	107.905,00 €
Injunction and precautionary		165,00 €	602,50 €			2.417,50 €	3.627,00 €	6.715,00 €	10.693,50 €	13.902,00 €	18.072,50 €	23.494,00 €	53.952,50 €
Forced sale of movable property		180,00 €	525,00 €			816,00 €	1.290,00 €	1.810,00 €	2.395,00 €	3.114,00 €	4.048,00 €	5.262,00 €	6.841,00 €
forced sale of real estate		212,00 €	715,00 €			1.080,00 €	1.645,00 €	2.300,00 €	3.026,00 €	3.926,00 €	5.104,00 €	6.636,00 €	8.626,00 €
The justice of peace has jurisdiction over cases involving movable assets with a value not exceeding € 5,000.00, when the law are not attributed to the competence of other court The justice of the peace is also competent for cases of compensation for damage caused by the circulation of vehicles and boats, provided that the amount in dispute does not exceed € 20,000.00.													
Introduction fee													
Civil trial - 1st Degree		43,00 €	98,00 €	237,00 €		237,00 €	518,00 €	759,00 €	1.214,00 €	1.686,00 €	1.686,00 €	1.686,00 €	1.686,00 €
Civil trial – Appeal		64,50 €	147,00 €	355,50 €		355,50 €	777,00 €	1.138,50 €	1.821,00 €	2.529,00 €	2.529,00 €	2.529,00 €	2.529,00 €
Civil trial - Court of Cassation		86,00 €	196,00 €	474,00 €		474,00 €	1.036,00 €	1.518,00 €	2.428,00 €	3.372,00 €	3.372,00 €	3.372,00 €	3.372,00 €

Administrative process lawyer's Fees

Value until	1.100,00 €	5.200,00 €	26.000,00 €	52.000,00 €	260.000,00 €	520.000,00 €	1.000.000,00 €	2.000.000,00 €	4.000.000,00 €	8.000.000,00 €
Cost of defense										
Case study	170,00 €	605,00 €	1.080,00 €	1.955,00 €	3.240,00 €	4.185,00 €	5.441,00 €	7.073,00 €	9.195,00 €	11.954,00 €
Introduction of the caus	170,00 €	540,00 €	875,00 €	1.350,00 €	1.820,00 €	2.430,00 €	3.159,00 €	4.107,00 €	5.339,00 €	6.941,00 €
Handling of the case	100,00 €	605,00 €	945,00 €	1.550,00 €	2.160,00 €	2.970,00 €	3.861,00 €	5.019,00 €	6.525,00 €	8.483,00 €
Determination of the ca	270,00 €	1.010,00 €	1.820,00 €	3.305,00 €	4.790,00 €	6.950,00 €	9.035,00 €	11.746,00 €	15.270,00 €	19.851,00 €
use of pre-trial	200,00 €	540,00 €	1.010,00 €	1.820,00 €	2.630,00 €	3.780,00 €	4.914,00 €	6.388,00 €	8.304,00 €	10.795,00 €
Sub total	910,00 €	3.300,00 €	5.730,00 €	9.980,00 €	14.640,00 €	20.315,00 €	26.410,00 €	34.333,00 €	44.633,00 €	58.024,00 €
lump-sum refund exper	136,50 €	495,00 €	859,50 €	1.497,00 €	2.196,00 €	3.047,25 €	3.961,50 €	5.149,95 €	6.694,95 €	8.703,60 €
Total	1.046,50 €	3.795,00 €	6.589,50 €	11.477,00 €	16.836,00 €	23.362,25 €	30.371,50 €	39.482,95 €	51.327,95 €	66.727,60 €

Introduction fee	
Administrative Complaints	Contributo
Administrative litigation concerning the right of citizenship, residence, and entry into the territory of the State	300,00 €
Administrative appeals against the refusal of access to environmental information set forth in Legislative Decree no. 195/2005	0,00 €
Administrative complaints to enforce sentence or compliance of the sentence	300,00 €
Court actions to the Regional Administrative Courts and the Council of State	650,00 €
Proceedings provided for in Title V, Book IV of D'LGS n. 104/2010 (abbreviated rites related to special dispute)	1.800,00 €
Proceedings under Articles. 116 and 117 of the D'DECREE n.104 / 2010 (access to the records and administration silence)	300,00 €
Extraordinary appeals to the President of the Republic	650,00 €
Appeals pursuant to Art. 119 co. 1 letter. a) and b) of Legislative Decree no. 104/10	
when the value of the dispute is equal to or less than € 200,000	2.000,00 €
when the value of the dispute is between € 200,000 and € 1,000,000	4.000,00 €
when the amount in dispute exceeds € 1 million	6.000,00 €

Tax process lawyer's Fees

Provincial Court (1° grade)											
Value until		1.100,00 €	5.200,00 €	26.000,00 €	52.000,00 €	260.000,00 €	520.000,00 €	1.000.000,00	2.000.000,00	4.000.000,00	8.000.000,00
Defense fee											
	Case study	170,00 €	540,00 €	945,00 €	1.685,00 €	2.430,00 €	3.510,00 €	4.563,00 €	5.932,00 €	7.712,00 €	10.026,00 €
	Introduction of the cause	100,00 €	340,00 €	540,00 €	810,00 €	1.145,00 €	1.485,00 €	1.931,00 €	2.510,00 €	3.263,00 €	4.242,00 €
	Handling of the case	85,00 €	270,00 €	470,00 €	945,00 €	1.350,00 €	1.955,00 €	2.542,00 €	3.305,00 €	4.297,00 €	5.586,00 €
	Determination of the case	170,00 €	875,00 €	1.350,00 €	2.090,00 €	3.970,00 €	4.115,00 €	5.350,00 €	6.955,00 €	9.042,00 €	11.755,00 €
	Total	525,00 €	2.025,00 €	3.305,00 €	5.530,00 €	8.895,00 €	11.065,00 €	14.386,00 €	18.702,00 €	24.314,00 €	31.609,00 €
Regional Court (2 grade)											
Value until		1.100,00 €	5.200,00 €	26.000,00 €	52.000,00 €	260.000,00 €	520.000,00 €	1.000.000,00	2.000.000,00	4.000.000,00	8.000.000,00
Defense fee											
	Case study	170,00 €	605,00 €	1.080,00 €	1.955,00 €	2.900,00 €	4.185,00 €	5.441,00 €	7.073,00 €	9.195,00 €	11.954,00 €
	Introduction of the cause	100,00 €	405,00 €	605,00 €	1.010,00 €	1.350,00 €	1.820,00 €	2.366,00 €	3.076,00 €	3.999,00 €	5.199,00 €
	Handling of the case	85,00 €	405,00 €	740,00 €	1.350,00 €	1.955,00 €	2.900,00 €	3.770,00 €	4.901,00 €	6.371,00 €	8.282,00 €
	Determination of the case	170,00 €	875,00 €	1.350,00 €	2.360,00 €	3.105,00 €	4.320,00 €	5.616,00 €	7.301,00 €	9.491,00 €	12.338,00 €
	Total	525,00 €	2.290,00 €	3.775,00 €	6.675,00 €	9.310,00 €	13.225,00 €	17.193,00 €	22.351,00 €	29.056,00 €	37.773,00 €

Introduction fee	
Tax Process - provincial and regional tax commission	
Value	Introduction fee
Value of up to € 2,582.28ino a € 2.582,28	30,00 €
Value of more than € 2,582.28 and up to € 5,000.00	60,00 €
Value of more than € 5,000.00 and up to € 25,000.00	120,00 €
Value of more than € 25,000.00 and up to € 75,000.00	250,00 €
Value of more than € 75,000.00 and up to € 200,000.00	500,00 €
Value greater than € 200,000.00	1.500,00 €

Criminal process lawyer's Fees

		Justice of Peace	Preliminary investigations	Defense investigations	Preliminary hearing	Court	Member Court	Assizes	Court of Appeal	Court of Cassation
Defense fee										
Study of the case		405,00 €	810,00 €	225,00 €	810,00 €	450,00 €	450,00 €	720,00 €	450,00 €	900,00 €
Introduction of the cause		335,00 €	630,00 €	240,00 €	720,00 €	540,00 €	720,00 €	1.350,00 €	900,00 €	2.520,00 €
Evidentiary phase		540,00 €	990,00 €	335,00 €	990,00 €	1.080,00 €	1.350,00 €	2.250,00 €	1.350,00 €	0,00 €
Determination of the case		710,00 €	1.170,00 €	405,00 €	1.350,00 €	1.350,00 €	1.350,00 €	2.700,00 €	1.350,00 €	2.610,00 €
	Total	1.990,00 €	3.600,00 €	1.205,00 €	3.870,00 €	3.420,00 €	3.870,00 €	7.020,00 €	4.050,00 €	6.030,00 €

No Costs of introduction.

Arbitration Lawyer's and court's Fees

					Arbitration							
Value until		€ 1.100,00	€ 5.200,00	€ 20.000,00	€ 26.000,00	€ 52.000,00	€ 260.000,00	€ 520.000,00	€ 1.000.000,00	€ 2.000.000,00	€ 4.000.000,00	€ 8.000.000,00
Defense fee (The lawyer)												
	Case study	€ 65,00	€ 225,00	€ 405,00	€ 875,00	€ 1.620,00	€ 2.430,00	€ 3.375,00	€ 4.388,00	€ 5.704,00	€ 7.415,00	€ 9.640,00
	Introduction of the case	€ 65,00	€ 240,00	€ 335,00	€ 740,00	€ 1.147,00	€ 1.550,00	€ 2.227,00	€ 2.895,00	€ 3.764,00	€ 4.893,00	€ 11.450,00
	Handling of the case	€ 65,00	€ 335,00	€ 540,00	€ 1.600,00	€ 1.720,00	€ 5.400,00	€ 9.915,00	€ 12.890,00	€ 16.757,00	€ 21.784,00	€ 56.638,00
	Determination of the case	€ 135,00	€ 405,00	€ 710,00	€ 1.620,00	€ 2.767,00	€ 4.050,00	€ 5.870,00	€ 7.631,00	€ 9.920,00	€ 12.896,00	€ 30.177,00
	lump-sum refund expenses	€ 49,50	€ 180,75	€ 298,50	€ 725,25	€ 1.088,10	€ 2.014,50	€ 3.208,05	€ 4.170,60	€ 5.421,75	€ 7.048,20	€ 16.185,75
	Total	€ 379,50	€ 1.385,75	€ 2.288,50	€ 5.560,25	€ 8.342,10	€ 15.444,50	€ 24.595,05	€ 31.974,60	€ 41.566,75	€ 54.036,20	€ 124.090,75
	Injunction and precautionary				€ 2.780,13	€ 4.171,05	€ 7.722,25	€ 12.297,53	€ 15.987,30	€ 20.783,38	€ 27.018,10	€ 62.045,38
	Forced sale of movable property				€ 816,00	€ 1.290,00	€ 1.810,00	€ 2.395,00	€ 3.114,00	€ 4.048,00	€ 5.262,00	€ 6.841,00
	forced sale of real estate				€ 1.080,00	€ 1.645,00	€ 2.300,00	€ 3.026,00	€ 3.926,00	€ 5.104,00	€ 6.636,00	€ 8.626,00
Arbitration fee (The judgement)												
	each arbitrator fee				€ 1.620,00	€ 4.050,00	€ 7.085,00	€ 16.200,00	€ 21.060,00	€ 27.378,00	€ 35.591,00	€ 46.268,00
	reimbursement generic costs				€ 243,00	€ 607,50	€ 1.062,75	€ 2.430,00	€ 3.159,00	€ 4.106,70	€ 5.338,65	€ 6.940,20
	Total				€ 1.863,00	€ 4.657,50	€ 8.147,75	€ 18.630,00	€ 24.219,00	€ 31.484,70	€ 40.929,65	€ 53.208,20

Registration Tax of the final decision

i.e. Taxation of the economic transaction determined by the judgment

To understand the registration tax and therefore also the registration of judicial documents it is useful to remember that it is a tax of a LEGAL DOCUMENT, which goes to tax the transferred wealth.

This means that it is necessary to analyze in detail the effects of the DOCUMENT and we must consider with the same principle the nature of judgments and judicial acts, in order to ascertain whether the sentence is merely an assessment or if it has a certain effect of transfer of the wealth or goods.

So, according to Italian law a tax is due in order to register the Court decision.

It also concerns judicial authorities that only partially define the judgment, including executive injunctions, awarding and awarding orders.

The registration obligation applies to all parts of the process in solidarity, without any distinction between the losing party or the victorious party.

In the relations between the parties, however, things are different: at the end of the trial the costs are imposed by the Judge with a sentence against the losing party who must reimburse the winner for the anticipated expenses, including any payment of the tax register.

Depending on the procedural events, the judge can order the total or partial compensation of the expenses, as it can impose sanctions.

Case	
transfer of property	judgments that transfer or constitute real rights on immovable property: the same taxes established for the corresponding contract apply and therefore if the transfer is subject to VAT, a fixed registration fee of Euro 200.00 will be due while, in case the transfer is not subject to VAT, we apply 2% first home, 9% in all remaining cases and 12% agricultural land and related appurtenances in favor of subjects other than farmers and professional agricultural entrepreneurs, registered in their social security and welfare management.
assessment of property	judgments of assessment of property rights: 1%
payment of sum	judgments condemning the payment of sums or values, other benefits or the delivery of goods of any kind: 3%
rejected claim	judgments that do not provide for the transfer, condemnation or assessment of rights with a patrimonial content: € 168,00
resolution	judgments declaring the nullity or pronouncing the annulment of a deed, even if they are condemnatory to the return of money or assets, or the resolution of a contract: € 168.00
divorce	judgments concerning the dissolution or termination of the civil effects of marriage or personal separation, even if they are condemned to the payment of checks or assignments of assets, already forming part of communion between spouses or modification of such convictions or attributions: euro 168,00
other	approval judgments: € 168.00

administrative

judgments of the Council of State and regional administrative tribunals that define, even partially, the judgment, including the executive injunction orders, which are condemned to the payment of sums of money other than court costs: 3%

Mediation

Mediation procedure might help litigants to reach an out of Court settlements in any dispute that concerns entitlements that the parties are free to renounce or transfer (diritti disponibili).

A system of civil and commercial mediation has been introduced in Italy by Legislative Order (decreto legislativo) n.28/2010 and in Ministerial Order (decreto ministeriale) n.180/2010.

Mediation is in general term voluntary, though it may be suggested by a Judge or required by a contract between the parties.

According to Italian legislation, mediation is however compulsory for the parties in certain subjects in order to be later allowed to introduce a case in Court.

Mediation services are provided by public and private mediation organisations which are entered in a register kept by the Ministry of Justice and published on its website (<http://www.giustizia.it>).

A person wishing to become a mediator must satisfy the requirements laid down in Article 4 of Ministerial Order n.18/2010: in particular, they must hold a degree or diploma at least equivalent to a University degree following three years of study, or in the alternative be a member of a professional association or organisation and have completed at least two yearly refresher courses with training providers accredited by the Ministry of Justice (and in the course of the two year retraining period they must have taken part as assisted trainees in at least twenty cases of mediation).

The training providers that issue certificates stating that mediators have completed the necessary training courses are public or private bodies accredited by the Ministry of Justice on condition that they meet stated standards.

The criteria that determine the mediation fee (indennità di mediazione) - including comprising the fee for initiating the procedure and the fee for mediation proper - are laid down in Ministerial Order n.180/2010.

The amounts are specified in Table A annexed to the Order.

They vary depending on the value in dispute.

Article 12 of Legislative Order n.28/2010 states that the record of the agreement - provided it is not contrary to public policy or it does not override rules of law - is to be approved, on application by either party, by the President of the lower Court (tribunale) in whose district the mediation organisation is based.

The approved record is an enforceable title for execution on property (espropriazione forzata), specific performance (esecuzione in forma specifica) or registration of a judicial mortgage (ipoteca giudiziale).

At present there is no public register of mediators, but the Ministry of Justice regularly publishes a list of the mediation organisations to which the individual mediators belong.

Members of the public can determine which mediators are members of a mediation organisation by asking for specific information from the office at the Ministry which supervises the mediation organisations' activities; the office can be contacted via the Ministry's website.

THE NETHERLANDS

Legal Aid

Income limit in civil cases.

See Article 12(1) in conjunction with Article 34 of the Legal Aid Act (WRB – Wet op de rechtsbijstand).

Income limit for defendants in criminal cases

Legal aid is free of charge where a legal representative is assigned by the court (Article 43 of the WRB). In other cases, the Legal Aid Board may assign counsel to persons eligible to receive representation under the criminal Code or the Code of Criminal Procedure (see Article 44(1) of the WRB). Under Article 35 of the WRB, anyone who is assigned legal aid must pay a contribution in proportion to their income.

Income limit for victims in criminal cases

Under Article 44(5) of the WRB legal aid for victims of sexual offences or violent crimes is free of charge, regardless of the victim's ability to pay, if a case is brought and if the victim is eligible for compensation under Article 3 of the Law on the Criminal Injuries Compensation Fund.

Other conditions for granting legal aid to defendants

Legal aid is not granted in criminal cases if:

- under the law that has been broken, a fine is likely to be imposed that is low in proportion to the defendant's income. See Article 12(2)(c) of the WRB.
- Article 5(1) of the Decree on Legal Aid and Assignment Criteria states that no legal aid is granted in criminal cases that are to be heard by a sub-district court (except for the purposes of consultation). Paragraph 2 of that article provides that, by way of exception, counsel may be assigned where this is justified because the person requesting aid has substantial interests at stake or where the particular facts or legal complexity of the case so require.

Law: The Legal Aid Act ('Wet op de Rechtsbijstand') and additional regulations	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHO	<p>In general legal aid is available for natural persons only.</p> <p>Anyone subject to Dutch law, resident in the country or with a legal problem which bears sufficient connexion with the Dutch legal order.</p> <p>Legal aid is available in criminal, immigration, asylum, administrative and certain categories of civil cases.</p> <p>Legal aid is available for judicial assistance in cases before courts, administrative tribunals and – depending on the severity of the case – disciplinary tribunals or certain complaints bodies. Legal aid may also be available for legal advice but only if legal proceedings are imminent.</p>		<p>In general legal aid in civil cases is not available for legal problems arising out of business-related activities by the person applying for legal aid (for example business-related contract disputes of self-employed clients).</p> <p>Legal aid is not available for general legal advice (e.g. in a non-contentious situation, or is a situation in which there is not (yet) a legal conflict).</p> <p>Legal aid is not available if an applicant is deemed 'self-reliant' and/or the conflict may be solved without a lawyer's assistance (e.g. filling out social –security forms, writing simple complaints, etc.) – to be determined by the Legal Aid Board.</p>	<p>Confining legal aid to assistance in judicial proceedings misses the fact that many clients are not 'self-reliant' when it comes to solving their increasingly complex legal and bureaucratic problems. It also encourages litigation (which is compensated) in many situations that otherwise could have been solved with good legal advice on how to avoid litigation (which is not compensated).</p>

Law: The Legal Aid Act ('Wet op de Rechtsbijstand') and additional regulations	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
CONDITIONS	<p><u>Clients</u> Gross monthly income of all permanent members of the household above the age of 18 years and capital.</p> <p>In 2017 the maximum income to apply for legal aid is € 25.600 for a single household, to € 36.100 for couples or singles with children.</p> <p>Children under 18 qualify with no financial test.</p> <p>Gross monthly income of all permanent members of the household above the age of 18 years and assets. The applicant's assets must not exceed € 21,330 (2017). Applicants over 65 years of age are allowed higher assets.</p> <p>The reference year lies two years before the year of application. A client can request the Board to change the reference year, if the applicant's income and/or assets in the year of application has decreased substantially compared to that in the reference year. This holds if the applicant's reference-year income and/or assets would not make him eligible for legal aid, whereas his present income and/or assets will.</p>	<p><u>Lawyers</u> To be entitled to accept legal aid cases, private lawyers need to be registered with the Legal Aid Board and to comply with a set of quality standards. These standards are set by the Bar. For some fields of law – criminal, mental health, asylum and immigration law, youth, family law – additional terms, set by the Legal Aid Board, apply. The lawyer must both have adequate expertise and sufficient experience in that particular field.</p> <p><u>Case</u> The case must be serious enough and there must be a reasonable chance of success.</p>		<p>The income threshold is widely viewed as too low, thus excluding a very large group of low to middle income who often cannot afford legal advice either.</p>

Law: The Legal Aid Act ('Wet op de Rechtsbijstand') and additional regulations	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHAT	<p>Legal aid covers lawyers' fees (in the great majority of cases in the form of a flat-rate compensation); in complex cases extra fees may be paid – mostly in complex and large criminal cases.</p> <p>Clients on legal aid pay significantly lower court fees;</p> <p>Legal aid also covers the bailiffs fees (e.g. when serving a writ or executing a judgement) and – subject to limitations – costs of translators.</p>	<p>Lawyers' fees are only paid by Legal Aid Board after the case has finished.</p>		<p>Court proceedings may take years, payment will however only take place after the end of the case.</p>

Law: The Legal Aid Act ('Wet op de Rechtsbijstand') and additional regulations	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
HOW PROCEDURE	<p>The Legal Services Counters ('Juridisch Loket') act as what is commonly known as the 'front office' (primary help). Legal matters are being clarified to clients and information and advice given. Clients may be referred to a private lawyer or mediator, who act as the secondary line of legal aid. Clients may also apply for help from a subsidised lawyer or mediator directly. If necessary, clients can also be referred to other professionals or support agencies</p>	<p>The costs of legal aid are partly covered by a contribution from the client. This personal contribution ('eigen bijdrage'). The height of this contribution depends on the income and capital of the client. In 2017, the lowest personal contribution is € 143, the highest € 823.</p>		<p>Personal contributions have to be collected from client by the lawyer. This poses a significant administrative burden and collection risk.</p>
	<p>Lawyers (and mediators) submit applications to the Legal Aid Board ('Raad voor Rechtsbijstand') on behalf of the client. The board is an independent governing body with a public task, instituted by the Minister of Security and Justice</p>	<p>In divorce related cases the personal contribution is higher from € 340 to € 849.</p> <p>In case of relatively simple legal problems, lawyers receive a certificate for a standard three-hour legal advice fee, also encompassing a personal contribution. This is called a minor certificate ('lichte adviestoevoeging').</p>		
	<p>If legal aid is granted, a certificate is issued which allows the lawyer in question to deal with the case. Lawyers and mediators are paid by the LAB to provide their services to clients of limited means. Generally they are paid a fixed fee according to the type of case, although exceptions can be made for more time consuming cases.</p>	<p>Certain categories of clients are exempted from individual contributions. This applies to all cases where people have been deprived of their freedom against their will. 'Proven Have-nots' (e.g. homeless clients) and asylum seekers are also exempted from paying an individual contribution as well as victims of violent crime</p>		

Law: The Legal Aid Act ('Wet op de Rechtsbijstand') and additional regulations	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
EFFECTS	The system (still) provides fairly just and broad access to legal aid and consequently to justice and the law.		<p>The system has serious flaws when it comes to civil cases between natural persons and (large) companies. Legal aid is often refused on the grounds that the client should be able to solve the case without legal assistance (for example by submitting a complaint to a low threshold complaints committee, or because the financial interest is deemed too low). Even if legal aid is granted, the fees are generally too low, even lower than in the example given in the next column.</p>	<p>Legal aid lawyers are relatively underpaid. For example a regular administrative case before a district court in a social security case will normally involve 15 to 20 hours of work. The flat-rate compensation for such a case is approximately € 1.050 – including 21% VAT (approx. € 870,00 ex VAT). Effectively the lawyer thus works for a fee of € 58 - € 43,5 per hour. This makes it very difficult to earn a reasonable income while maintaining a high level of quality.</p> <p>Consequently, less and less young lawyers choose a career in firms that work on a legal aid basis.</p>

Lawyer's Fee

With the exception of fees payable to those offering subsidised legal aid, fees in the Netherlands are not regulated.

Fixed costs for litigants in civil cases.

Under the Act on Fees for Civil Proceedings (WTBZ – Wet tarieven in burgerlijke zaken), parties in civil proceedings are required to pay registration fees.

Fixed costs for litigants in criminal cases.

There are no fixed costs for litigants in criminal proceedings under Dutch criminal law.

Fixed costs for litigants in constitutional cases.

Under the Dutch legal system, there is no provision for referring constitutional matters to the courts.

Stage in civil proceeding when litigants have to pay fixed costs

In civil proceedings, a fixed charge has to be paid by each claimant as soon as a case is referred to a court and by each defendant who appears before the court. Each court levies a fixed fee for filing a claim, defence statement, or a petition of any other kind than those referred to in Article 14(3). Non-payment or late payment of this fee has no consequences in the main proceedings.

Stage in criminal proceeding when litigants have to pay fixed costs.

The same arrangements apply as for civil proceedings.

Prior information to be provided by legal representatives.

Rights and obligations of the parties.

The law says nothing on this subject. Rights and obligations can, however, be derived from the 1992 Code of Conduct for Advocates (for more information, see the Dutch Bar Association's website) and the Code of Conduct for EU Advocates. See, for example, rule 26 of the Code of Conduct for Advocates, which requires lawyers to discuss the financial implications with the client whenever they take on a case and to give details of the manner and frequency of invoicing. Article 3.7.1. of the Code of Conduct for EU Advocates also states that lawyers

should always seek to achieve the most cost-effective resolution of a client's dispute and should advise the client at the appropriate stage as to the desirability of seeking a settlement and/or having recourse to alternative dispute resolution procedures.

Costs incurred by the winning party.

In civil cases, the winning party may incur the following costs:

- legal aid (e.g. lawyers' fees)
- remuneration or compensation of witnesses or experts
- travel and accommodation expenses, and
- other legal and non-legal expenses.

Costs incurred by the losing party

The losing party incurs the same costs as the winning party, but may also be ordered by the judge to bear the costs incurred by the winning party.

Cost-free court proceedings.

Defendants do not have to pay any fixed costs in cases that are to be heard by a sub-district court or tenancy tribunal.

When does the losing party have to pay the winning party's costs?

The decision on which party has to bear the costs of proceedings is taken by the court on a flat-rate basis (i.e. not on the basis of costs actually incurred).

Experts' fees.

Experts' fees vary: You can find appropriate information in the Decree of 28 August 2012 amending the 2003 Decree on tariffs in criminal proceedings. That Decree amended the 2003 Decree on tariffs in criminal proceedings.

Translators' and interpreters' fees.

Fees for translation and interpreting are set by the Ministry of Justice:

Interpreters are paid a rate of EUR 43.89 per hour. Additionally court interpreters are paid a one-off fee of EUR 20.23 to compensate travelling and waiting time (fixed fee). Travel costs are reimbursed at the rate of EUR 1,55 per kilometre.

Translations from or into French, German and English are remunerated at a rate of EUR 0.79 per line. A rate of EUR 0.14 per word (target language) applies to other languages and of EUR 0.28 per character applies to oriental languages.

Costs of Arbitration and Mediation (ADR)

Legislation Arbitration is regulated in articles 1020 – 1077 of the Code of Civil Procedure (CCP). The articles 1020 – 1073 CCP are only applicable if the place of arbitration is situated within the Netherlands (article 1073 CCP). According to the Dutch law, parties may agree to submit their dispute to an arbitrator regardless of whether the dispute has arisen or may arise. In addition, according to article 1020 CCP this can be done contractual or non-contractual.

As in the former Act, Dutch arbitration law does not deal with the recovery of legal fees or costs. Alternatively, it is possible for an arbitration agreement may state the allocation of costs.

In the absence of such agreement the arbitrators can decide this allocation, however it is normal practice for the arbitrators to decide the losing party bears the costs of arbitration, including the legal fees of the other party. In reality there is a reasonable limit placed on the amount payable by the losing party, resulting in the possibility that the winning party cannot recover all costs incurred.

Cost of mediation.

Mediation in the resolution of civil disputes is not provided free of charge.

There are no specific statutory provisions regarding mediation in the Netherlands (yet). However, in 2004 the (former) Minister of Justice (J.P.H. Donner) sent a policy letter to the parliament, which is a careful step towards instituting mediation.¹¹⁰ On June 21, 2011, the Dutch House of Representatives agreed to the adjustment of Book 3 of the Civil Code and the Code of Civil Procedure to the European mediation Directive regarding certain aspects of mediation in civil and commercial affairs.

On the other hand, in 1993 the NMI ('Nederlands Mediation Instituut') was established. The institute aims to improve the acquaintance, the usage and quality of mediation in the Netherlands. The NMI has a leading role in the Dutch mediation practice. The NMI was the initiative of counsels, lawyers and legal scholars. Soon after, other mediation institutes emerged, notably the ACB ('ADR Centrum voor het Bedrijfsleven').¹¹² The regulations of the NMI and the ACB, as well as those of the NAI ('Nederlands Arbitrage Instituut') are now a foundation for mediation in the Netherlands.¹¹³ As a result of these developments, the Dutch government established the

'Platform ADR', whose task was to advise to what extent mediation could function as an alternative or supplement to the normal legal procedure.

Costs depend on the type of case. Some procedures are complex and time-consuming and therefore more expensive. There are also cases where the parties are advised to involve specialised lawyers in the mediation. Sometimes referral to a mediator can prompt the parties to resolve their differences by themselves, which is a sign that mediation can work to prevent the escalation of a dispute.

If the parties have sufficient financial means, they have to meet the costs of mediation themselves. The income threshold for eligibility for a state-subsidised lawyer or mediator is:

For married couples, registered partners or those living together: €35.200,00 per year.

For single people: € 24.900,00 per year.

In addition to these financial limits, legal aid is not available to parties with assets above a certain value requiring disclosure to the tax authorities. These include a second home, other real estate, savings, liquidity, assets, etc. The exact value for married couples, registered partners or people living together is determined on the basis of data from the tax authorities.

If the parties' means fall below the applicable thresholds, the state will contribute to the cost of a lawyer or mediator. However, the state will never pay the full amount. Each party must make a financial contribution. This amounts to € 51 for 0 - 4 hours and €102 for 5 or more hours (per mediation, not per party). The contribution for a lawyer is higher. These figures are given by way of an indication and are not legally binding.

(The exact amounts can be found on the website of the Legal Aid Council)

POLAND

Legal Aid

There is no unified system of legal aid in Poland and no specific legal aid legislation to address its provision in a systemic and organized manner. The decision to grant legal aid is always taken by a judge. The judge decides whether the request for legal aid should be granted and if so, which lawyer should be appointed. There is no separate or specialized group of lawyers acting in legal aid cases: the judge appoints a lawyer from a list provided by the local bar associations.

Exemption from court fees may be requested by an individual who submits a statement that he/she is unable to cover them without detriment to the support necessary for himself/herself and the family. The court may also grant exemption from court fees to a business entity if it has demonstrated that it does not have sufficient means to pay such costs. The costs of legal aid, incurred by the State Treasury, include regulated fees and essential, substantiated expenses.

A natural person may demand the exemption from court fees, after making a declaration, that it's unable to bear them without detriment to necessary maintenance for itself and a family.

A statement, covering detailed data on family situation, assets, income, regular source of income of a person applying for the exemption from court fees, should be also made and attached to the application for exemption from court fees.

Costs of Justice

Civil Court Costs

The sources of court cost are not subject to the court's discretionary decision, but the rules of determination are stipulated in numerous legal acts. The most important legal act is the Act on Court Fees.

It is difficult to determine an average amount of the average court cost of a proceeding, because it depends on the type of a proceeding and on a particular case. The Act on Court Fees provides for the following sort of fees: permanent fee, proportional fee, basic fee.

A court fee should be paid upon filing a pleading. In general, the cost of bringing an action to the court depends on the type of proceeding. In litigation cases most often is a relative fee of 5% of the value of the subject of dispute, but not less than 30,00 zł and more than 100.000,00 zł.

Please note that, in principle, the fee for **appeal** is the same as for the first instance.

Civil Lawyer's Fees

There are regulations specifying rates for calculating the reimbursement of lawyers' fees to the winning party, and for calculating remuneration for attorneys ex officio. Fees amount depends on the nature of litigation (look at the example below). The court sets mostly only minimum fees. In complex cases, the court may set higher fees. The Polish legal system does not provide any regulation determining the lawyer's fee above the minimum fee. The prices for legal service are calculated between a lawyer and his client, it is meant that the final lawyers' fees depend also on experience and position of given lawyer.

Example:

When the lawyer's fees depend on the amount in dispute, the lawyer's fees is:

1. 120 zł - when the amount in dispute is below 500,00 zł;
2. 360 zł - when the amount in dispute is between 500,00 zł and 1500 zł;
3. 1200 zł - when the amount in dispute is between 1500,00 zł and 5000,00 zł;
4. 2400 zł - when the amount in dispute is between 5000,00 zł and 10000,00 zł;
5. 4800 zł - when the amount in dispute is between 10000,00 zł and 50000,00 zł;
6. 7200 zł - when the amount in dispute is between 50000,00 zł and 200000,00 zł;
7. 14400,00 zł - when the amount in dispute is above 200000,00 zł.

There is no tax over the decision.

Criminal Court Costs

The criminal proceedings cost are paid by State Treasury. However, the court determines who and what part of fee will pay. Some of these fees must be paid at the beginning of bringing a letter to the court, and some shall be specified in the decision closing the proceedings.

Entity liable to pay the costs of criminal proceedings can be charged, convicted, and in some cases the prosecutor.

Sentenced to imprisonment must pay from 60 to 600 zł depending on the judgment of the court . In case sentenced to 3 months imprisonment , the fee is 60 zł . Sentencing to imprisonment for 2 years – 300 zł for 5 years 400 zł and 600 PLN in case of conviction to imprisonment for 15 years or 25.

In the case of fines, convicted must pay a fee of 10 percent her height, but newer less than the amount of 30 zł . Costs increase to 20 percent high of fines if convicted at the same time he heard the sentence of imprisonment.

In the case of conditional discontinuance of the case , the defendant is obliged to pay from 60 to 100 zł .

In cases of private prosecution, in the case of an acquittal of the accused the court imposes private prosecutor fee in the amount of 60 zł to 240 zł . The court may refrain from imposing the penalty or reduce its size if the accused has not been acquitted of all charges against him .

It should be mentioned that the private indictment it must be paid charged 300 zł.

The proceeding fee for appeal is the same as for the first instance, with one exception - when the appeal is not unfounded the fee is 30 zł.

Civil Lawyer's Fee

The same regulation like in civil law, it is mean that legal system does provide only the minimum laweyrs fee and the final prices for legal service are calculate between a lawyer and his client.

The minimum lawyers fees depends on the kind of court case. The lower fees is 360,00 zł and the highest is 1.200,00 zł.

There is no tax on the decision.

Administrative Court Costs

The cost of the proceedings in the administrative courts.

The relative or fixed fee from the writings of initiating proceedings in the administrative court depend on complaint. In case, the subject of appeal are amounts should be paid relative fee, in other cases is taken by the court fixed fee.

The relative fee is:

- to 10,000 zł - 4 % of the value of the disputed, but not less than 100 zł,
- from 10.000 zł to 50,000 zł - 3% of the value of the disputed, but not less than 400 zł,
- from 50,000 zł to 100,000 zł - 2% of the value of the disputed, but not less than 1,500 zł,
- from 100,000 zł to 1 % of the value of the disputed, but not less than 2,000 zł and not more than 100,000 zł,

Fixed fee is:

1. complaints against decisions issued in administrative proceedings, enforcement and security - 100 zł,
2. complaints of acts or activities of the public administration on the rights or obligations under the law - 200 zł,
3. complaints against acts of territorial self - government - 300 zł,
4. complaints about the inactivity of public administration - 100 zł,
5. complaint against the provincial administrative courts - 100 zł,
6. tax proceeding – 500 zł,

7. customs proceeding – 500 zł,

The proceeding fee for appeal against the decision is half fee as for the first instance.

There is no tax on the decision.

Administrative Lawyer's Fees

The same regulation like in civil law, it is mean that legal system does provide only the minimum laweyrs fee and the final prices for legal service are calculate between a lawyer and his client.

Example:

When the lawyers fees depend on the amount in dispute, the lawyer fees is:

1. 120 zł - when the amount in dispute is below 500,00 zł;
2. 360 zł - when the amount in dispute is between 500,00 zł and 1500 zł;
3. 1200 zł - when the amount in dispute is between 1500,00 zł and 5000,00 zł;
4. 2400 zł - when the amount in dispute is between 5000,00 zł and 10000,00 zł;
5. 4800 zł - when the amount in dispute is between 10000,00 zł and 50000,00 zł;
6. 7200 zł - when the amount in dispute is between 50000,00 zł and 200000,00 zł
7. 14400,00 zł - when the amount in dispute is above 200000,00 zł.

Fiscal Court Costs

Under Article 264 of the Act of August 29, 1997 . The Tax Ordinance Act (consolidated text Journal of Laws of 2005 . No. 8, pos. 60) hhe costs of the proceedings before the tax authorities (as a rule) shall be borne by the

State Treasury, state, county or municipality. However, if costs have increased due to the fault of the taxpayer in which the proceedings are pending, the tax authority is entitled to charge him the additional costs.

Fiscal Lawyer's Fees

The legal system does not provide any regulation determining the lawyers fee. The prices for legal service are calculate between a lawyer and his client.

There is no tax on the decision.

Mediation

The cost of mediation is borne by the parties. It is usually paid in half, unless the parties agree otherwise.

In mediation proceedings initiated under a court order, the mediator's remuneration in non-property related cases is PLN 150 for the first mediation meeting, and PLN 100 for each subsequent meeting (in total: max. PLN 450). If the proceedings relate to property rights, the remuneration of a mediator is 1% of the amount in dispute (no less than PLN 150 and no more than PLN 2000 for the whole mediation). Mediator will also be reimbursed for expenses incurred in carrying out the mediation, including room rental fee of PLN 70 per meeting. The VAT will be added to costs of mediation.

Regardless of result of the case, the court may order a party to pay costs caused by an unreasonable refusal to participate in the mediation previously agreed with the party.

If there is a settlement signed as a result of mediation, the party will be reimbursed for 75% of the court fee paid when bringing the case to court.

In the case of mediation initiated under a court order, the remuneration of a mediator and reimbursement of his/her expenses result from pricing of the mediation centre concerned or the parties agree on it together with the mediator before mediation.

The legal system does not provide any regulation determining the lawyers fee. The prices for legal service are calculate between a lawyer and his client. There is no tax on the decision.

Arbitration

Arbitration may be more expensive and its price depends on the system chosen.

The proceeding before the **Arbitration Consumer Court** are free of charge, but the parties have to cover the costs of appointing an expert or ordering an expert's study. That fee reimbursed to the party that wins the case.

In the case of proceeding before the **Arbitration Consumer Court at the Office of Electronic Communications** (UKE) the fe is approximately 100 zł.

The Banking Arbitrator requires a fee for comsumer is 250 zł and for non-comsumer depend on the value of the subject of dispute.

The cost of proceeding before **Insurenace Ombudsman** depend on the value of the subject of dispute and the fe eis also determined by the arbitrator. It cannot be less than 100 zł if dispute is examined by ane arbitrator or 350 zł when a dispute is examined by a panel of three arbitrators. There is no maxium fee.

The legal system does not provide any regulation determining the lawyers fee. The prices for legal service are calculate between a lawyer and his client. There is no tax on the decision.

ROMANIA

Legal AID in Romania

Legal aid is granted:

- when fixed or overall estimated costs of the trial might restrict constitutional right to effective access to justice;
- when right to access to justice might be restricted due to differences in costs of living between the Member State of residence and Romania;
- in case of minor, interned in a re-education centre or an educational medical institution, arrested or held in custody in the context of other criminal case, medically interned (or receiving compulsory medical treatment), incapable of conducting his or her own defence.

The following claims are legally exempt of any Court costs: all claims relating to the protection and promotion of children's rights, guardianship, trusteeship, assistance given to seriously mentally ill persons, claims relating to legal and contractual maintenance obligations and all claims relating to adoption.

A defendant who has admitted the plaintiff's claim at the first hearing need not pay the judicial expenses, unless he or she was officially notified by the bailiff through the specialised prior - to - judgment procedure, previously presented above.

Expenses necessary for the performance of procedural acts, the administration of evidence, the maintenance of material means of evidence, lawyers' remuneration, as well as any other expenses related to criminal trials are covered by the sums forwarded by the State or paid by the parties.

In case of conviction, the defendant must cover the judicial expenses incurred by the State, with the exception of expenses for interpreters appointed by the judicial bodies, and in cases in which free legal aid has been granted.

In case of acquittal of the criminal trial in Court, the judicial expenses of the State are paid by: (a) the victim, to the extent to which they were caused by him/her; (b) the civil party whose civil claims were totally rejected, to the extent to which the expenses were caused by this party; (c) the defendant, when, even if acquitted, he/she was still obliged to pay damages.

In case of cessation of the criminal trial in Court, the judicial expenses of the State are paid for by (a) the defendant, if the replacement of criminal responsibility has been ordered or there is reason for non-punishment; (b) both parties, in case of reconciliation; (c) the victim, in case the complaint is withdrawn or was tardily submitted to Court.

In case of amnesty, prescription or withdrawal of the complaint, as well as in the case of existence of a cause for non-punishment, if the defendant demands the continuation of the criminal trial, the judicial expenses may be covered by the victim or the defendant, depending on other connected law provisions. In all other cases, the State pays for its own judicial expenses.

<p>Emergency Ordinance 21/04/2008 n. 51 and Law 07/06/1995 n. 51</p>	<p>RULE</p>	<p>SPECIFICATIONS</p>	<p>EXCLUSIONS</p>	<p>PROBLEMS</p>
<p>WHO</p>	<p>ANY INDIVIDUAL WHO HAS THE DOMICILE/HABITUAL RESIDENCE IN ROMANIA/ ANY EU MEMBER STATES</p> <p>INDIVIDUALS WITHOUT DOMICILE/HABITUAL RESIDENCE IN ROMANIA/EU MEMBER STATES – under specific conditions</p> <p>JUDICIAL PROCEDURES: CIVIL, COMMERCIAL, ADMINISTRATIVE, EMPLOYMENT AND SOCIAL INSURANCE CASES, OTHER CASES, <u>EXCEPTING CRIMINAL CASES</u></p> <p>EXTRAJUDICIAL PROCEDURES: before the public authorities and institutions, other than judicial.</p>	<p>INDIVIDUALS WITHOUT DOMICILE/HABITUAL RESIDENCE IN ROMANIA/EU MEMBER STATES –As long as a treaty is in effect, a treaty which contains legal stipulations concerning international access to justice, between Romania and the citizen's state/state in which the individual inhabits.</p> <p>INDIVIDUALS WITHOUT DOMICILE/HABITUAL RESIDENCE IN ROMANIA/EU MEMBER STATES – in the absence of a treaty spoken above, the facilities of an international access to justice can be provided only by international courtesy subject to reciprocity.</p> <p>THE DOCUMENTS MUST BE TRANSLATED IN ROMANIAN</p> <p>The Dean may decide to grant free assistance by a lawyer even in criminal matters.</p>	<p>INDIVIDUALS WITHOUT DOMICILE/HABITUAL RESIDENCE IN ROMANIA/UE MEMBER STATES – in the absence of a treaty which contains legal stipulations concerning international access to justice and also in the absence of international courtesy subject to reciprocity</p>	<p>Encouraging for false residency declaration.</p> <p>The legal aid is not granted in criminal cases, excepting the legal aid provided by the lawyers under specific conditions.</p>

<p>Emergency Ordinance 21/04/2008 n. 51 and Law 07/06/1995 n. 51</p>	<p>RULE</p>	<p>SPECIFICATIONS</p>	<p>EXCLUSIONS</p>	<p>PROBLEMS</p>
<p>CONDITIONS</p>	<p>The individual doesn't afford/ doesn't have the necessary means to initiate a case law and to support his family simultaneous</p> <p>Amount of Legal Aid provided by year ≤ 10 total earnings before taxes</p>	<p>Earnings after taxes per family member 2 months before requesting legal aid < 66, (6) € (300 RON) [?] 100 % legal aid provided</p> <p>Earnings after taxes per family member 2 months before requesting legal aid < 133, (3) € (600 RON) [?] 50 % legal aid provided</p>	<p>NO INCOME LIMITS FOR CASES EXPRESS STIPULATED BY A SPECIAL LAW as a protection measure regarding special circumstances as minority, disability (handicap) and so on.</p>	<p>The limits of the earnings conditioning the legal aid are very low. The legal aid is granted in a few cases.</p> <p>Significant undeclared earnings</p> <p>The death of the applicant revokes the legal aid</p> <p>Exceeding the income limits during the proceedings</p> <p>Encouraging the tax evasion</p>

Emergency Ordinance 21/04/2008 n. 51 and Law 07/06/1995 n. 51	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHAT	<p>The legal aid consists in granting consultations, formulation of applications, petitions, complaints and in assisting and representing the applicant before the courts and before the public authorities and institutions.</p>	<p>The legal aid can be granted separately or cumulatively in any of its forms.</p> <p>The beneficiary of the legal aid who lose the case can not be forced to return the judicial expenses paid for him by the state.</p>	<p>The legal aid will be rejected if the court finds that the applicant has hidden the truth in bad faith.</p>	<p>EXCLUDED Post judgment counselling</p> <p>The extrajudicial aid covers only the lawyer fees.</p>

<p>Emergency Ordinance 21/04/2008 n. 51 and Law 07/06/1995 n. 51</p>	<p>RULE</p>	<p>SPECIFICATIONS</p>	<p>EXCLUSIONS</p>	<p>PROBLEMS</p>
<p>HOW PROCEDURE</p>	<p>Addressing a petition to the Court (the same Court which hears the case in which the legal aid is requested)</p> <p>Written application [?] content: trial object, I.D. of applicants family and applicant incomes, providing documents proving the incomes</p> <p>Self declaration on any legal aid requested in the last 12 months</p> <p>The legal aid regarding the payment of the expert, translator, interpreter and bailiff fees and of the state fees is decided by the judge</p> <p>The legal aid regarding the payment of the lawyer fees is decided by the Dean of the Bar which belongs the lawyer</p>	<p>Legal aid is granted anytime before or during the trial</p> <p>The individual who is requesting legal aid can be exempt of paying expert, translator, interpreter, bailiff, lawyer fees and the state fees</p>	<p>EXCLUSION OR REVOCATION:</p> <p>If evidence shows a higher standard of living or not compatible with declared income</p> <p>If the cost of the trial is disproportionate towards the requested claims</p> <p>If the claims are contrary to public order</p> <p>Exceeding the income limits during the proceedings</p> <p>In the absence of mediation or other alternative solutions when they are mandatory</p> <p>When the applicant demands compensation for harms to the image, honor and reputation, in absence of material damage and when the demand results from</p>	<p>The abusive claims and the careless behavior towards the trial which ends up by losing the case will determine a total refund of the legal aid provided</p>

<p>Emergency Ordinance 21/04/2008 n. 51 and Law 07/06/1995 n. 51</p>	<p>RULE</p>	<p>SPECIFICATIONS</p>	<p>EXCLUSIONS</p>	<p>PROBLEMS</p>
<p>EFFECTS</p>	<p>COVERING:</p> <ul style="list-style-type: none"> - Lawyer fees - expert, translator, interpret fees - Bailiff fees - Exemptions, discounts, reschedules, delays in paying state fees <p>Extra coverage for EU citizens/ EU inhabitants</p> <ul style="list-style-type: none"> - Documents translations fees - interpret assistance during court hearing -traveling fees 	<p>UNFREE CHOICE OF THE LAWYER</p> <p>The lawyer can be chosen by the applicant in exceptional cases, with the approval of the dean.</p> <p>The legal aid cannot be granted by the lawyers with disciplinary sanctions, sentenced for common offenses, that broke the law of lawyers repeatedly or who gave a inferior legal assistance.</p> <p>FREE CHOICE OF THE BAILIFF</p> <p>UNFREE CHOICE OF THE EXPERT, TRANSLATOR AND INTERPRET</p> <p>The legal aid will be supported from the state funds.</p> <p>The legal aid is granted during the whole procedure requested through the initial claim.</p>	<p>Earnings after paying taxes per family member during 2 months before requesting legal aid < 133, (3) € (600 RON) [?] 50%</p> <p>REDUCED PAYMENT OF FEES</p>	<p>INCOMPATIBILITY OF THE LAWYER</p> <p>The lawyer who provided extrajudicial assistance cannot provide judicial assistance to the same applicant in the same case.</p> <p>In case of losing the trial, the applicant must to pay the judicial expenses of the opposing party.</p> <p>If the application for legal aid from Romania is rejected by the competent authority of the requested State (EU member), the Romanian Central Authority will require to the applicant the reimbursement of the costs of translation.</p>

Costs of proceedings

Information explaining the various cost sources is not easily available as it is not published on public institutions' websites, nor mentioned in leaflets.

Legal representatives do not have a direct obligation to provide parties with prior information on their rights and obligations, their prospects of success and the costs involved in the proceedings.

However, under the Statute of the legal profession the lawyer has the duty to advise his or her client in a prompt, conscientious, correct and diligent manner.

Information can be obtained directly from people working in the field or from some laws relating to judicial costs.

VAT is added to these amounts where legally required.

There are no fixed costs for litigants pertaining to criminal or constitutional proceedings.

Lawyer's Fees

Lawyers' fees are regulated by Act No 188/2000 on judicial executors and Order No 2550/C of 14 November 2006 approving minimum and maximum fees for services provided by judicial executors.

Lawyers' fees are variable and determined according to the case's level of difficulty, size and duration.

The level of fees may be agreed upon freely between the lawyer and his / her client, yet within the limits of the law and the Statute of the profession.

The level of fees payable can be based on: an hourly rate charged in relation to hours worked; a fixed sum; an amount dependent on a successful outcome.

In addition to a fixed sum, the lawyer may request an additional, fixed or variable sum paid upon success but it is strictly forbidden however to base the lawyer's fee exclusively on the judicial outcome.

It is almost impossible to provide an estimate of the fees because this information can only be obtained after presenting the case to a lawyer, who will then assess the fees to be paid taking into account all the case necessary related aspects, and mainly the workload, the value of the litigation and also the nature of the litigant.

Bailiff and experts' costs

Judicial executor (Bailiff) fees are fixed by Law n.188/2000 on judicial executors/bailiffs as well as by Order n.2550/C of 14 November 2006 on the approval of minimum and maximum fees for judicial executors' services.

Experts' fees are regulated by the Civil Procedure Code and by Government Ordinance n.2/2000 on the organisation of the activity of judicial or extra - judicial technical expertise.

The execution - related expenses must be paid in advance by the party that has requested it although the advance payment of the judicial executors' fees cannot be a condition for the execution of Court decisions.

The judicial executor is paid by the party which has requested the execution of a certain procedure and for each individual enforcement act.

Fees charged by judicial technical experts are variable and established by the body which has ordered the assessment, taking into account the complexity of the assessment, the volume of work involved and the professional or scientific grade of the judicial technical expert.

Court costs

In case of civil action to the Courts, claims are subject to Court fees and must receive the judicial stamp.

Court fees and stamp duty are regulated by Law n.146/1997 on Court fees and Government Ordinance n.32/1995 on stamp duty.

Judicial decisions, subpoenas, and notifications are communicated to parties, witnesses, experts or any other persons or institutions involved in the litigation for free.

The applicant pays the Court fee he or she estimates to be correct upon submission of the claim and, at the first hearing, the Court determines the legal Court fees to be paid and duly requests the party to pay any shortfall.

The consultation or copying of documents from the Court file and of certificates from the Court clerk's office are subject to payment.

Translators' fees

Translators or interpreters' fees are determined by the Court in the ruling which appoints the interpreter or translator.

Translation and interpretation fees are regulated by the Civil Procedure Code, by Law n.178/1997 and by Order n.772 of 5 March 2009 on the establishment of fees for authorised interpreters and translators.

With reference to translation fee, the party which has requested interpretation services must pay the Court - fixed fee, the official travel expenses or the interpreter's fee within 5 days of the fixing of the fee.

As regards experts' fees, the amount established as provisional fee and the advance payment for travelling costs, where applicable, are to be paid within five days after the appointment of the judicial technical expert, by the party that has requested the assessment, in the special account opened specifically for this purpose by the local office for judicial and accounting technical assessments.

The Court may also decide that those expenses be borne by both parties.

Experts' fees

Article 274 of the Code of Civil Procedure provides that the losing party shall be obliged, upon request, to pay the legal expenses, including the fees of the judicial technical experts paid for by the winning party.

Mediation

Mediation is regulated by Law n.192/2006 on mediation and the organisation of the profession of mediator.

The Mediation Council, established by Law n.192/2006 on mediation, is responsible for supervising mediation in Romania; it is an autonomous legal entity which acts in the public interest and has its headquarters in Bucharest.

The members of the Mediation Council are elected by the mediators and approved by the Ministry of Justice of Romania.

The main responsibilities of the Mediation Council are to adopt decisions in order to set the training standards in the field of mediation (on the basis of best international practice and to supervise their adherence by the professionals), authorise mediators, maintain and update the List of Mediators, approve the training curricula for mediators, adopt the Ethical and Deontological Code for authorised mediators, adopt regulation on the organisation and functioning of the Mediation Council, initiate proposals to amend or to correlate legislation on mediation.

In accordance with Article 12 of Law n.192/2006, authorised mediators are registered in the "Panel of Mediators" managed by the Mediation Council and published in the Romanian Official Journal.

The list of authorised mediators contains information on: their membership to professional associations, the institution from which they graduated, the mediation training programme they followed, foreign languages in which they are able to conduct mediation services, their contact details.

Article 2 of Law n.192/2006 allows parties to seek mediation in disputes relating to civil or penal matters, family matters and other fields of law subject to the legal provisions.

Consumer disputes, and other disputes subject to renounceable rights, can also be resolved using mediation but matters relating to personal rights and to non-renounceable rights cannot be the subject of mediation.

Recourses to mediation is voluntary as there is no obligation for parties to look for mediation services, and they may opt out of mediation at any stage.

Interested parties may contact a mediator before coming to Court, and also during Court proceedings.

However, various national legal provisions in the field of mediation oblige Judges, in certain cases, to inform parties of the possibility of opting for mediation and the advantages of doing so.

In other cases, a number of financial incentives are offered to parties who choose mediation or other alternative dispute resolution proceedings.

On 17 February 2007 has been approved the Ethical and Deontological Code for mediators.

Training courses are run on a regular basis with initial training course of 80 hours concerning objectives, skills to have developed by the end of the programme and the evaluation methods.

Mediation is not free of charge; the level of payment is subject to agreement between a private mediator and the parties.

Directive 2008/52/EC creates the possibility to request that the content of a written agreement resulting from mediation be made enforceable.

Member States shall inform the Commission of the Courts or other authorities competent to receive requests.

Law n.192/2006 provides that the mediator is entitled to payment of a fee agreed with the parties, as well as to the reimbursement of expenses incurred in connection with the mediation.

No VAT is applicable to Court fees, nor to the stamp duty and neither to the lawyers' fees included in the legal assistance contract.

Summary Table

ROMANIA	CIVIL	CRIMINAL	ADMINISTRATIVE
acces before a court	paying a state fee	free	paying a state fee
costs (negative aspects)	The state fees are big in comparison with the minimum income of a Romanian citizen. Usually the state fees are bigger than the attorneys fees. The state fees are regulated by the Government Ordinance no. 80/2013.	The state fees supported by the delinquent are acceptable.	The state fees are acceptable.
costs (positive aspects)	In some situations the applicant can obtain refunds, reductions, rescheduling or deferral for the payment of state fees		In some situations the applicant can obtain refunds, reductions, rescheduling or deferral for the payment of state fees
acces to law	Basic and free acces to law by internet at http://legislatie.just.ro		
acces to jurisprudence	Free acces to jurisprudence of all courts by internet at http://portal.just.ro/SitePages/jurisprudenta.aspx http://www.scj.ro/736/Cautare-jurisprudenta http://www.rolii.ro		
acces before a bailiff	The bailiff fees are big in comparison with the minimum income of a Romanian citizen and must be paid an advance.		
legal aid	The legal aid is regulated by the Government Emergency Ordinance no. 51/2008. The legal aid is granted in civil, commercial, administrative, labor and social security, as well as other causes, except criminal. The legal aid is granted rarely because of very restrictive conditions provided by law. The judges don't grant easily the legal aid. The legal aid can be granted as assistance by a lawyer, as the payment of the expert, translator or interpreter fee, as the payment of the executor fee or facilities to pay the court fees. The ordinance provides special rules for granting legal aid citizens of European Union Member States other than Romania.		

SPAIN

Legal Aid

Pursuant to Article 119 of the Spanish Constitution, legal aid is a procedure whereby those who can demonstrate a lack of sufficient financial means are granted a series of benefits mainly consisting of exemption from payment of lawyers' and legal representatives' fees and costs arising from expert testimonies, guarantees, etc.

Broadly speaking, the right to legal aid includes the following benefits:

- free advice and guidance prior to the start of proceedings;
- access to a lawyer by the person under arrest or the prisoner;
- free defence and representation by a lawyer and legal representative during the legal proceedings;
- free publication in the course of the proceedings of announcements and edicts that must be published in official gazettes;
- exemption from the payment of deposits for the lodging of appeals;
- free assistance from experts during proceedings;
- free procurement of copies, testimonies, instruments and notarial certificates;
- 80% reduction in fees for certain notarial actions;
- 80% reduction in fees for certain actions carried out in relation to the Land and Commercial Registers.

For cross-border disputes only (after reform of the Legal Aid Law by Law 16/2005 of 18 July 2005, which brought it into line with Directive 2002/8/EC), the following items have been included in the above rights:

- Interpretation services;
- Translation of documents;
- Travel costs where an appearance in person is required.

In general, it can be requested by citizens who are involved in or about to initiate any kind of legal proceedings and who lack sufficient financial means to carry out the litigation.

Natural persons are deemed to have insufficient resources when they can provide evidence that all the components of their annual resources and revenue, calculated by family unit, do not exceed twice the Public Index of Income (IPREM) applicable at the time of application.

The Legal Aid Commission may exceptionally decide to grant the right to legal aid where the resources exceed double the IPREM but do not exceed four times the IPREM.

For legal persons to qualify for legal aid, their taxable base for corporate tax must be lower than the amount which is equivalent to three times the annual calculation for the IPREM.

The legal person must be a non-profit organisation or foundation registered in the corresponding administrative register.

In any case, other external signs that demonstrate the real financial capacity of the applicant will be taken into account.

There are exceptions for natural persons based on disabilities and/or other family circumstances that allow the above income limits to be exceeded.

Specifically, are entitled to legal aid Spanish citizens, nationals of other Member States of the European Union and any foreigners resident in Spain, where they can demonstrate insufficient means for litigation.

In employment proceedings: all employees and beneficiaries of the social security system.

In criminal proceedings: all citizens, including foreigners, who can demonstrate insufficient means for litigation, even where they do not legally reside in Spain.

In administrative Court proceedings: all foreign citizens who can demonstrate insufficient means for litigation, even where they do not reside legally in Spain.

With the entry into force of Organic Law 1/2004 of 28 December 2004 on Comprehensive Protective Measures against GenderBased Violence (Ley Orgánica 1/2004 de Medidas de Protección Integral contra la Violencia de Género), women who are victims of gender-based violence are granted full legal aid immediately.

LAW 1996, JANUARY 10 TH , n. 10	RULE	SPECIFICATIONS	EXCLUSIONS	PROBLEMS
WHO	<p>spanish citizens, eu citizens and foreigners in spain; management institutions and common social security services, always;</p> <p>public utility associations and foundations registered in the public registry;</p> <p>spanish red cross;</p> <p>association of consumers and users. (art 2.2 of the law for the defense of consumers and users).</p>	<p>individuals: when they demonstrate having insufficient resources according to the requirements of article 3 of this law;</p> <p>public utility associations and foundations registered in the public registry when they demonstrate having insufficient resources to litigate, regardless of their resources to litigate for associations which purpose is the promotion and defense of victims of terrorism; victims of violence against women, terrorism and human trafficking, children, and people with mental disabilities (in proceedings that are related to, arise from or are consequences of their victim status), without the need to demonstrate having insufficient resources as long as they maintain their victim status;</p> <p>workers and beneficiaries of social security before labour courts, without the need to demonstrate having insufficient financial resources;</p> <p>accident victims with permanent damages without the need to demonstrate having insufficient resources.</p>	<p>when having financial means exceeding the limitset by the law;</p> <p>legal persons other than those mentioned in the previous table;</p> <p>it will not be granted after lodging a claim, or after lodging the statement of defense, except if it is desmonstrated that the requirements to be entitled to legal aid have originated subsequently.</p>	<p>the recognition of the right to legal aid is not retroactive</p>

<p>CONDITIONS</p>	<p>maximum values to access:</p> <p>twice the multiplier for the public income index (iprem)* for persons who do not belong to a family unit;</p> <p>twice the iprem for persons who belong to a family unit of less than 4 members;</p> <p>3 times the iprem for family units of 4 or more members, or who have had their “large-family” status legally recognized.</p> <p>*public income index (iprem) year: 2017 daily: 17.75€ /day monthly: 532.51€/month annual (12 fee): 6390.13€/year annual (14 fee): 7455.14€/year</p>	<p>14,910.28 € for persons who do not belong to a family unit;</p> <p>18,637.85 € for persons who belong to a family unit of less than 4 members;</p> <p>22,365.42€ for families of 4 or more members;</p> <p>37,275.70€ when the exceptional circumstances referred to in article 5 of law 1/96 are demonstrated.</p>		<p>when the applicant belongs to a family unit, all the incomes received by its members will be taken into account.</p> <p>may be excluded, regardless that the thresholds requirements to apply for a legal aid lawyer are met, the cases established in article 4 of this law.</p>
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<p>WHAT</p>	<p>Pre-trial legal advice and guidance;</p> <p>Lawyer's legal assistance to detainee or prisoner;</p> <p>free defense and legal representation by alawyer in judicial proceedings;</p> <p>free placement of communications and notices;</p> <p>exemption from payment of court fees andof deposits for the appeal;</p> <p>free expert assistance;</p> <p>obtaining copies, testimonies, instruments and notarial acts without costs;</p> <p>reduction of 80% of the fees of notary actions;</p> <p>reduction of 80% of the commercial properties registers fees;</p> <p>exemption from payment of the costs of the proceedings if ordered to bear them by the court.</p>			<p>The right to legal aid must be recognized in each judicial proceedings. when the proceedings ends, the benefit is exhausted.</p>
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HOW PROCEDURE	<p>Attend to the legal orientation service of the corresponding bar association.</p> <p>Fill out the application form, attaching the information required. the legal orientation services of the bar associations will study the submitted documentation.</p> <p>The application may also be submitted to the judicial body corresponding to the applicants domicile, which will forward it to the competent bar association</p>			<p>if it is considered that the application is insufficient or that there are deficiencies, a period of 10 business days is granted to the applicant to rectify defects</p>
EFFECTS	<p>The legal aid beneficiary only have to bear 20% of the amount of fees corresponding to the issue of public deeds, and to obtain copies and notarial testimonies.</p>		<p>shall not be paid by the applicant when it is demonstrated that the income is below the iprem</p>	<p>if the rightholder wins the case, obtaining financial benefits, and the judgment does not include an express ruling on the costs, he shall bear the costs incurred for his defense, without exceeding the third part of the benefit obtained</p>

COURT ORDER TO BEAR THE COSTS OF THE PROCEEDINGS: Art. 36 of the Law on LEGAL AID(LAJG) states that: "When the Court decision that ends the proceedings orders the person who had obtained the recognition of the right to legal aid, or who had this right legally recognized, to bear the costs, this person will be bound to pay the costs incurred for their defense and those of the opposing party, if, within three years of the end of the proceedings, that person's financial situation improves.

WHEN THE LEGAL AID BENEFICIARY IS ORDERED BY THE COURT TO BEAR THE COSTS OF THE PROCEEDINGS, THEY WILL HAVE THE OBLIGATION TO PAY THEM IF WITHIN THE FOLLOWING THREE YEARS THEIR FINANCIAL SITUATION IMPROVES.

Lawyer's Fees

In Spain there is only one category of lawyer (abogado) who, after becoming a member of the professional association of the place, can appear in any type of proceedings and before any type of Court.

Lawyers set their fees according to guidelines published by their professional association and based on general criteria such as complexity of the case and proportionality.

In civil proceedings article 241 of the Code of Civil Procedure (Ley de Enjuiciamiento Civil) specifically covers lawyers' fees for cases where the assistance of a lawyer is mandatory as these fees are included as an item in calculating costs.

The client has a rough idea of the sum involved from the outset but the exact amount of the lawyer's bill has to be established once litigation has ended.

The lawyer can claim payment from the client, including through special procedures such as an advance on fees (provisión de fondos, while the proceedings last) or a final statement of accounts (jura de cuentas, once concluded).

In practice, what usually happens is that the client initially pays an amount in advance and then awaits a decision on costs.

In cases where the other party has to pay the fees, the lawyer and legal representative present their fees to the Court, and once the fees are approved they are paid by the opposing party.

In criminal proceedings the client is required to pay the bills that are issued once the proceedings have ended but there is no advance payment of money when Court - appointed lawyers are used because legal aid is normally processed at the same time.

So, if the client is entitled to legal aid, he or she does not have to pay the lawyer's fees and the State will pay the bill unless the client's financial situation improves within a period of three years (usually they do not pay anything).

Both the lawyer and the legal representative have a duty to inform the client as often as the the client so requests.

Court costs

It is a national tax that must be paid in certain cases by users, whether natural or legal persons, for going to Court and making use of the public service of the administration of justice.

The requirement to pay this fee was introduced on 1 April 2003 and it is currently governed by Law n. 10/2012 of 20 November 2012, as amended by Royal Decree n.3/2013 of 22 February 2013.

In some cases payment of this fee is mandatory.

The fee for the exercise of judicial power in civil, administrative (contencioso-administrativo) and employment cases is uniformly chargeable throughout Spain.

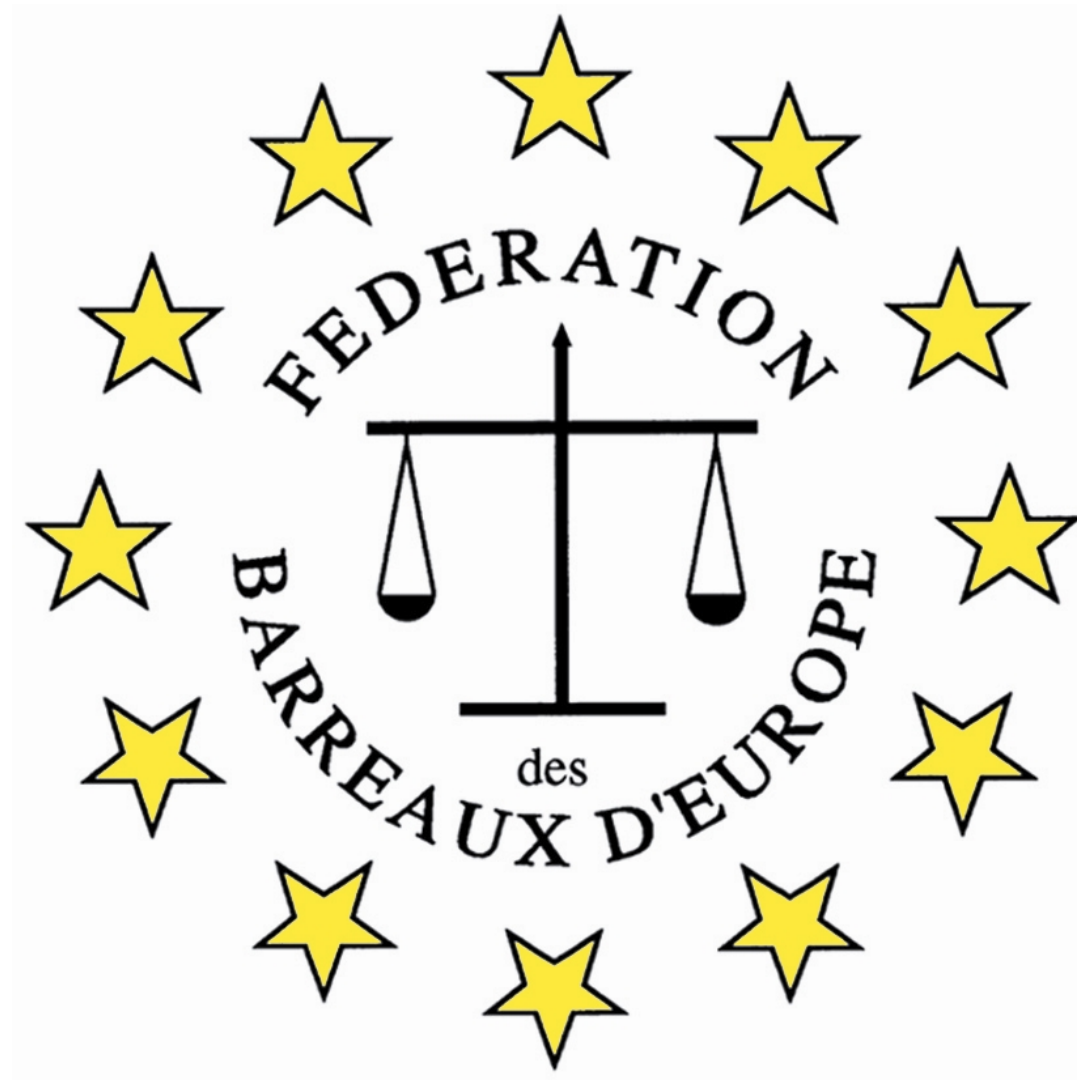
That payment is due when the exercise of judicial power has been generated by the following procedural steps:

- bringing of an action in any type of proceedings for a full judgment and proceedings for the enforcement of out of Court enforceable instruments in civil cases, the filing of a counterclaim and the initial application for the order for payment procedure and the European order for payment procedure,
- filing for compulsory insolvency and ancillary claims in bankruptcy proceedings,
- lodging of proceedings in administrative Court cases,
- lodging of an extraordinary appeal for breach of procedure in civil proceedings,
- lodging of appeals (apelación or casación) in civil and administrative Court cases,
- lodging of appeals (suplicación or casación) in employment cases,
- objection to the enforcement of judicial instruments.

Anyone who instigates the exercise of judicial power that produces the chargeable event is liable for payment of the fee.

The fee can be paid by the legal representative (procurador) or lawyer (abogado) in the name and on behalf of the taxable person, in particular if the latter is not resident in Spain.

There are exemptions for categories of action (for instance cases of capacity, filiation, matrimony and minors, fundamental rights, public freedoms, and also appeals against the conduct of the election administration, voluntary insolvency, statutory rights etc) and for categories of people (persons who are entitled to legal aid, Public Prosecutor's Office etc).



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Access to Justice Commission
Hosted by Lucca Bar



Report about access to Justice for Minors

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Structure of the report

- ✿ Access to Justice for minors in civil matters under parental authority;
- ✿ Access to Justice for minors in civil matters under guardianship of a guardian;
- ✿ Access to Justice for minors in civil matters in conflict with parents or guardian;
- ✿ Role of minor children in matrimonial disputes between parents.
- ✿ The protection of Children during the adoption trail;
- ✿ Criminal justice for minors;
- ✿ Special criminal consequences for minors and measures of protection and aid;
- ✿ The position of minors of incarcerated parents.

ENGLAND AND WALES

Children and young people's access to Justice - Education law

(Sarah Inchley, 21.8.2)

Overview

As a headline summary, in the field of education law, children and young people are most likely to require access to justice when encountering the following problems:

- exclusion from school and an interference with their right to education;
- discrimination at school (most typically disability discrimination);
- challenging the support they receive from the Government in respect of their special educational needs and challenging public body decisions more widely such as challenging exam results.

There are rights of appeal/challenge for children and young people for all of the above but these are complex legal processes for a child or young person to navigate alone and all will benefit from the information sharing, advice and representation from a lawyer.

A child or young person is also heavily dependent on a pro-active and responsible parent to advocate on their behalf.

Many of the problems above disproportionately affect vulnerable and disadvantaged children and young people, who do not necessarily have an adult with parental responsibility championing for their rights to be upheld.

A child or young person does have recourse to public funding to access justice to seek remedy for some educational problems. This is limited in scope and means which does prevent a barrier to accessing justice in the field of education law.

Barriers to access to justice for young people are therefore are:

- i. A child /young person reliant on a parent or person with parental responsibility championing their rights;
- ii. Complex legal processes for a young person and their parents to navigate without the benefit of legal representation;

iii. Public funding for legal representation limited in scope.

The following reports¹ contain a wealth of information on access to justice for young people on the issue of school exclusions which may be helpful.

Key legislation.

- Equality Act 2010
- Children Act 1989
- Children and Families Act 2014
- LASPO
- Human Rights Act 1998.

More details expanding on the overview above is below

1. Key issue: Exclusion from School

Permanent exclusions can have serious detrimental consequences for a child's future. The effects of exclusion disproportionately affect disadvantage and vulnerable children and in particular those with special education needs and disability and minority groups. There is a strong correlation between exclusion and youth crime. There are growing concerns around the prevalence of 'off rolling' or informal exclusions.

Children have a right to ensure that exclusion decisions are lawful, reasonable and fair.

1.1 Ways to challenge wrong decisions /seek justice?

Two possible routes for a child/young person's parent to challenge:

- i. Independent Review Panel (IRP) whereby the Governing Body of the School reviews the Headteacher's decision;
- ii. Appeal to the First Tier Tribunal (Education & Social Care) who have the power to order reinstatement of a child

1.2. Funding

There is no available public funding for representation/advice at IRP and a young person/parent has to navigate this process on their own which can be emotionally charged and intimidating.

Limited public funding for appeal to First Tier Tribunal.

¹ *JUSTICE: Challenging School Exclusions 11h November 2019*
Timpson report on School exclusions 7th May 2019

Charity advice available such as the School Exclusion Project offering free legal representation.

1.3. Commentary

There is no right for a child to challenge an exclusion themselves and the appeal process via an IRP centres around the parents rather than the child. Concerns that children/young people's views are not taken into account. A barrier to justice is that a successful challenge via an Independent Review Panel is very difficult to achieve and this route is largely ineffective. The majority of IRPs simply 'rubber stamp' a headteacher's decision. In any event, the IRP lacks any power to order a child is re-instated.

An appeal to the First Tier Tribunal is more effective with wider independent case management powers and the power to order a school re-instates a child. This appeal route however is underutilised by parents due to 'appeal fatigue' often having already bought a IRP claim or lack of knowledge understanding of this route. A claim can be brought by a young person themselves if over 16 or parents on their behalf.

2. Key issue: disability discrimination in schools

Typically disability discrimination is in connection with admissions, the provision of education and access to learning and exclusions. Discrimination takes the form of unfavourable treatment or failure to make reasonable adjustments.

2.1. Ways to challenge wrong decisions /seek justice?

Claim under the Equality Act 2010 of disability discrimination brought to the First Tier Tribunal (Education & Social Care) or County Court.

The child cannot make a claim even if they are 18 or older. The claim must therefore be brought by a parent or another with parental responsibility which can be a local authority if a Care Order has been made for a child. It can also be a foster carer a child or young person lives with.

2.2. Funding

For those on low income or certain welfare benefits, legal aid funding on a means basis is available to a child/young person or their parents.

Charity advice also available.

2.3. Commentary

Discrimination claims are often backward looking and unlikely to result in better support being put in place for a child. Important however when a child seeks reinstatement to a school following exclusion or to hold a school to account to prevent discriminatory for other pupils.

The Tribunal cannot award financial compensation in claims or order that a staff member is dismissed and remedies are typically an apology, staff training, change in policies etc.

3. Key issue: Support for educational special needs secured via an Education Health and Care Plan EHCP

3.1. Funding

For those on low income or certain welfare benefits, legal aid funding on a means basis is available to a child/young person for 'legal help' only. That is to say for the preparation of an appeal. There is no legal aid for representation at the hearing itself. It can be secured in exceptional circumstances.

Charity advice also available.

3.2. Commentary

For a child under 16, an appeal is made by a parent or person with parental responsibility on a child's behalf. For a child over 16, an appeal can be made in their own right. The SEND Tribunal is a relatively child friendly Tribunal and children are encouraged to attend to give evidence if appropriate. A child's views have to be considered by law. The whole appeal process is designed to be navigated without representation of a lawyer and many parents appeal without legal representation. The majority of cases settle before a hearing (75%). The evidence is that 89% of cases are decided in a young person/parents' favour over a local authority and so chances of success are high.

The SEND Tribunal therefore provides good access to justice for a child/young person.

The barriers to accessing the justice above for a young person is understanding their right of appeal in the first place and they navigating though this process.

Many local authorities base decisions on a support for a young person's special education needs on their budget rather than what is required meaning that to secure effective support, a young person/parent may have to appeal several times.

This is also a lengthy process and prejudicial to a young person in the meantime whose educational needs are not being met.

4. Key issue: challenging decisions of public bodies through Judicial Review

A child/young person can challenge a public body decision through Judicial Review only if all other means of redress have been exhausted.

Typically used if a local authority is not providing the educational or social care support it should to a young person

Typically JR has been used by three young people to challenge the Quality Standard on the standardisation model of awarding A levels. Arguably, it was these legal challenges which formed part of the Government's 'U turn' to award teacher assessed grades rather than grades which had been subjected to an algorithm in an attempt to ensure fairness.

4.1. Funding

For a child limited public funding is available for a lawyer to draft a pre-action protocol letter and issue the application. Means assessment is on the child's income not the parents.

In the A level JRs, the young people were crowd funded to afford legal advice. Concerns that if unsuccessful a cost award may have been made against them to fund the cost of the Government's legal costs.

4.2. Commentary

Young people /children and their parents very much need the benefit of legal representation to bring a JR and will be hampered without legal advice. Changes brought by the Criminal Justice and Courts Act 2015 restrict JR for all parties and it is now more difficult for a child/young person to bring a challenge in this way or for charities and other organisations to do so on their behalf.

5. Access to justice for minors

5.1. Family - Public law – child protection²

Children are automatically parties to some applications, e.g. where there is an application to take them into care.

In some cases they get legal aid automatically and in others it is means and merits tested but most children would get legal aid due to their circumstances. There are slightly different rules for 16-17 year olds but again most would fall into the eligibility bracket.

There are some public law cases where the child would not be an automatic party but an application could be made to be joined to the case.

In public law cases, this would mean the child would have a solicitor and a guardian to represent their interests, unless the child is older and a guardian not needed. If the child is competent, the solicitor takes instructions direct from the child even if there is a guardian.

Children can approach their own solicitor who would have to decide if they are able to instruct directly, otherwise they would have to have a next friend or guardian ad litem to lead the litigation

A child would need leave of the court to make an application in their own right as an applicant

In public law cases, children are well represented and their voice heard in my view

5.2. Private law - children

The situation for children in private law cases e.g. disputes between parents, is very different. Children are not usually parties to the proceedings, although an application can be made to join the child but that is unusual. If the child is joined, they will usually be eligible for legal aid on a means basis and would have a solicitor and guardian to represent them

If a child is not a party, the only way the child “participates” is when the court decides that a welfare report is needed and the welfare officer (either from the local children’s service if the child is known to the Local Authority) or from CAFCASS (Children And Family Court Advisory and Support Service) interviews the children to ascertain their wishes and feelings and reports on their welfare. Otherwise it’s left to the parents to state the child’s views. Difficulties arise in these cases where the parents argue that the child is saying one thing to one, and one thing to another which is not surprising.

² Samantha Little.

This has long been a source of concern with some thinking that children should be parties to private law cases, so that children's views are heard neutrally, whilst others express concern that this involves them in the dispute too much which can be harmful.

It is suggested that in private law cases where children do not have a welfare report, that we are not compliant with article 12 of the UNCRC

UN Convention of the Rights of the Child, article 12 (respect for the views of the child): Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child's day-to-day home life.

In both public and private cases, judges are usually willing to see children now if the child wants to see the judge, this is in private but the discussions are disclosed to the parties, and confidentiality is not possible. The meeting is not for the purpose of evidence gathering

Children would usually be represented by Children Panel Solicitors, approved by the Law Society to ensure the experience and ability of the solicitor

5.4. Private law – finance

Occasionally a child is joined to a family finance case e.g. where the child has some sort of financial interest in the outcome of the division of the assets on separation/divorce. This is unusual. The child would be represented by the Official Solicitor unless there is someone in the family/friends network who would be a suitable next friend/guardian

There are some cases where a child's legal costs would be paid by a parent in a private law case but that raises potential problems regarding neutrality

There are other applications, e.g. adoption, parental orders, abduction and in all these, the court can join a child to those proceedings if it meets the criteria and the child will then be represented, subject to means testing

Legal aid remains available therefore for children cases. Access for parents to legal aid for private law cases has reduced and a parent needs gateway evidence to be able to apply for legal aid. This has caused great concern about access to justice and protecting children's welfare in private law cases. The rates of remuneration have been heavily reduced over the years. This means that representation of vulnerable children is at risk due to the fact that it is not very profitable to undertake this work, particularly for more senior lawyers.

6. Public Funding for children related matters in the family arena

6.1. Overview

Since 1 April 2013, as a result of the [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (LASPO 2012), public funding is available for the following areas³ of family law:

i. Public family law matters

- i. concerning the care, protection and supervision of children; and
- ii. any application for a Special Guardianship Order or Child Arrangements Order made in relation to care proceedings.

ii. Children matters falling under the inherent jurisdiction of the High Court

- i. ie wardship proceedings.

iii. Private family law matters

- i. where there is evidence that there has been or there is a risk of domestic violence;
- ii. where there is evidence of child abuse; and
- iii. where the child is the client.

iv. Cross-border child abduction matters

v. Mediation

- i. Legal advice (“Legal Help” which is the lowest level available from Legal Aid Agency) provided for mediation of family disputes.

vi. Domestic violence cases

vii. Forced marriage protection order cases

viii. EU and international agreements concerning children

³ Part 1, [Schedule 1](#), LASPO 2012

6.2. Means and merits test in proceedings

Means = assessment by the Legal Aid Agency (LAA) of financial eligibility based on income and capital.

Merits = LAA examines strengths and weaknesses of case: proportionality, chances of success, reasonableness.

6.3. Public proceedings

Type of proceedings	Means/merits criteria
Secure Accommodation Order under S 25 of Children Act 1989 (CA 1989)	Non means/merits tested for the child who is the subject of the order
Care Orders Supervision Orders Child Assessment Orders Emergency Protection Orders (including orders in relation to the duration of EPOs) all under Parts 4 and 5 CA 1989	Non means/merits for the child who is the subject of the order and parents of/ parties with parental responsibility for the subject child
Contact with/end contact with a child in care Discharge/Variation of a Care/Supervision Order Removal and accommodation of children by police in cases of emergency Appeals in public law cases (including appeals against final orders made in Special Children Act Proceedings All under Parts 4 and 5 CA 1989	Means and merit tested for <u>all parties</u>
Placement Orders Recovery Orders Adoption Chapter 3 of Part 1 of Adoption and Children Act 2002	Means and merit tested for <u>all parties</u>
Wardship	Means and merit tested for <u>all parties</u>

6.4. Other types of proceedings/ cases

Proceedings	Means/merits criteria
Where the child is the client in private law children proceedings for the following: Child arrangement orders, Prohibited steps order and Specific issue orders	No, child does not have to satisfy means test.
Other private family matters (ie the majority)	Those with parental responsibility must satisfy the eligibility test
International child abduction cases	Those with parental responsibility must satisfy the eligibility test

ITALIA

1. Access to Justice for minors in civil matters under parental authority

1.1. The capacity to act.

The general principle is that one becomes capable of performing acts with relevant legal effects relevant legal effects when you turn eighteen years of age.

Special laws which which establish a lower age for the capacity to work. to perform their work. In such case, the minor shall be qualified to the exercise of the rights and actions that depend on the contract of employment."

Therefore, complete maturity is acquired at the completion of the eighteenth year, which coincides with the age of majority.

From that moment the so-called capacity to act is acquired in general. It is, in simple words, the possibility to express one's own will with acts that can modify one's own juridical situation inasmuch as the law recognizes the effects. For example, opening a bank account

For example, opening a bank account, appealing against the decision of an authority, renting a room, etc. rent a room, etc.

1.2.The representative of the minor in the process.

In general, girls and boys up to the age of eighteen years may not claim their case alone in a trial, even through an attorney.

There must be a **parent or other adult who legally represents them**. This can be a parent or, if if not, a guardian.

This person acts on behalf of the minor and may appoint an attorney for them.

The law provides for the cases in which the parent must be authorized by the tutelary judge, who in extraordinary cases evaluates the interests of the child. The same thing happens when there are no parents, but a guardian is appointed.

1.3. Cases in which minors can act for themselves.

The law provides that a minor person may act for himself or herself and may stand in court. For example: the emancipated minor, i.e. the minor authorized by the

Court to marry under art. 84 of the Civil Code “can stand in court both as a plaintiff and as a defendant” pursuant to Article 394 of the Civil Code.

With regard to the issue raised about the possibility for the minor to challenge administrative acts, it will be necessary to assess whether the legislation applicable to the right of provides for the minor to be able to independently assert his right in court.. If the law does not provide for it, the minor may be represented in court only by a parent or guardian.

2. Access to Justice for minors in civil matters under guardianship of a guardian (Tutore)

2.1. What if there is no a parent or guardian?

You must ask the judge to appoint a guardian.

Before proceeding to the Before appointing the guardian, the judge must also hear the minor who has who has reached the age of sixteen years" (penultimate paragraph of art. 348 of the Civil Code, "Choice of guardian"). of the Civil Code, "Choice of guardian").

Or the judge may appoint a provisional representative for the trial (special curator).

2.2. Limits to the power of the child's representative (parents or guardian)

The minor cannot normally act autonomously.

The law considers him/her as a weak subject to be protected until the age of eighteen.

The adult who takes the place of the minor and represents him/her has special obligations and limits to protect the minor.

For first, the adult who represents the minor, even the parent, has the power to perform only acts of *ordinary administration*. These are all acts other than those specified by the law as acts of extraordinary administration. The latter can be carried out only with the prior authorization of the tutelary judge, if both parents request it (article 320 of the Civil Code).

The acts of extraordinary administration carried out without the authorization *acts of extraordinary administration* performed without authorization may be annulled and cannot be remedied even by means of subsequent authorization.

The prior authorization of the judge, since this represents a real and proper constitutive element of the legal act, rather than a mere condition of its condition of effectiveness of the same.

3. Access to Justice for minors in civil matters in conflict with parents or guardian

3.1. In case of conflict: the curator

In the case in which a conflict of interest arises between several children subject to the same parental authority, or between the child and the parent (or guardian), or even in all cases where the parent (or guardian) is unwilling or unable to carry out one or more acts in the interest of the child, the tutelary judge may appoint a curator also at the request of the minor, or of his or her close relatives or anyone else having an interest therein.

The curator may perform in the interest of the child a single determined legal act and has powers and functions identical to those.

The curator can carry out in the interest of the minor a single, determined legal act and has powers and functions identical to those due to parents, albeit limited to the transaction for which it is appointed. For this reason the special curator in this case is also called "curator ad acta".

For example, to accept an inheritance.

The question is whether the curator appointed to carry out a single act also has the power to represent the minor in the the judgement that may arise from the act for which he/she was appointed.

In the various hypotheses in which in the interest of the minor a case must be filed in the interest of the child, or if the child is sued in relation to acts exceeding the ordinary administration, or or if the child is summoned to court for acts exceeding the ordinary administration, or the promotion or management of a lawsuit, a special curator, also called "curator ad litem", shall be appointed.

Often and willingly there is coincidence between the lawyer and special curator ad processum, but this practice does not legitimize to identify the curator with the lawyer, as the former does not always have to be issued the power of attorney to the dispute (the mandate).

3.2. Disavowal of paternity

Other hypotheses of special curatorship concern actions of disavowal of paternity (art. 235 of the Civil Code), or in appeals against the recognition of the father by

the recognized child (art. 263, 264 of the Civil Code, where the appointment of a special curator is envisaged, at the request of the request of the Public Prosecutor, who acts as the minor's representative) or the child) or in the judgments of opposition to adoptability (articles 16 and 17 of Law 184/1983, as amended by Law 149/2001).

4. Role of minor children in matrimonial disputes between parents

4.1. The hearing of the minors.

The right to hear minors in proceedings in which measures concerning them are to be adopted is currently governed, in the Italian civil law system, by articles 315 bis, 336 bis and 337 octies of the Civil Code, introduced by Law 219/2012 and Legislative Decree 154/2011: at international level, it is provided for by article 12 of the New York Convention and article 6 of the Strasbourg Convention.

Article 315bis(III) of the Civil Code recognises the right of the child - who has reached the age of **twelve**, or even younger if capable of discernment - to be heard in all matters concerning him or her.

Article 336 bis of the Civil Code provides that the child shall be heard by the court in proceedings in which measures affecting him or her are to be adopted, unless such a hearing would be contrary to his or her interests or manifestly superfluous.

The hearing is conducted by the judge, also with the assistance of experts or other auxiliaries: the judge may authorize the parents to attend the hearing, even where they are parties to the proceedings, the parties' lawyers, the child's special guardian, if one has been appointed, and the public prosecutor. All these persons may propose to the judge arguments and topics for further study before the start of the hearing.

Prior to the hearing, the judge informs the child of the nature of the proceedings and the effects of the hearing: minutes are taken of the performance in which the conduct is described, or an audio/video recording is made.

Article 337 octies of the Civil Code confirms that, before issuing, even provisionally, measures concerning the children, the court shall order a hearing. If he considers it appropriate, having heard the parties and obtained their consent, the judge may postpone the adoption of measures to allow the parents, with the help of experts, to attempt mediation in order to reach an agreement, with particular reference to the protection of the moral and material interests of the children.

Article 12 of the New York Convention requires States to ensure that the child - who is capable of discernment - has the right to express his or her views freely on

any matter affecting him or her and that his or her views are taken seriously, taking into account his or her age and degree of maturity: to this end, the child is given the opportunity to be heard in any judicial or administrative proceedings affecting him or her, either directly or through an appropriate representative or body, in accordance with the rules of procedure of national law.

The Strasbourg Convention (Article 6) requires the judicial authority, before reaching any decision in proceedings concerning children, to assess whether it has sufficient information to make a decision in the best interests of the child and, if necessary, to obtain additional information, in particular from the holders of parental responsibility.

When the child has sufficient capacity of discernment, the court shall ensure that he or she has received all relevant information and, if the case so requires, shall consult him or her personally, if necessary in private, directly or through other persons or bodies, in a manner appropriate to his or her maturity, unless this is manifestly contrary to his or her best interests, in order to enable him or her to express his or her views and take them into due consideration.

In cases of irreconcilable conflict between the interests of the minor children and the claims of the parents, the Judge may appoint a special curator to represent the children and also an independent lawyer.

In practice, this is a hypothesis that is rarely practiced.

It is hoped that greater attention will be paid to the interests of minor children in matrimonial disputes, consistent with the decisions of the Courts and the Supreme Court focused to the interests and responsibility of minors.

5. The protection of Children during the adoption trail

The institution of adoption creates a relationship of legal filiation between persons not related by blood.

5.1. The types of adoption

Italian law currently provides for three types of adoption:

1. adoption of the child, which gives the adoptee the position of child of the adopters, creating a bond similar to that of biological filiation and places him/her in a new family;
2. adoption in special cases, which occurs when full adoption of the child is not possible, resulting in a legal filiation bond overlapping the filiation by blood. This type of adoption does not interrupt the relationship with the biological family, but parental responsibility falls to the adoptive parents;

3. adoption of an adult who acquires a legal filiation bond in addition to the filiation by blood.

5.2. Adopters and adoptee

The adopting party must meet certain requirements: (1) to be married; (2) to have the fitness to perform the parental function; (3) age.

Adopters must have been married for at least three years and must be suitable and capable of bringing up, educating and maintaining a child (emotional suitability). Finally, the age required of adopters must be at least eighteen years older than that of the adoptee and not more than forty-five years old.

The Italian Constitution recognises the right of the child to be brought up within his or her own family and it is therefore up to the judge to establish adoption only as a last choice when there are no other possible ways.

The State and local authorities have the tasks to ensure means of support to help a needy family to prevent the child from being removed from them.

With this in mind, the legislature initially envisaged the institution of child custody, whereby a child who is in a situation of temporary abandonment may be temporarily entrusted to another person until the family of origin overcomes the difficulties that prevent it from providing adequately for the child.

On the basis of these rules and principles, the judge may choose between different measures of increasing detachment from the family of origin, such as the adoption of family support measures, termination of parental responsibility, family fostering, non legitimate adoption and legitimate adoption, depending on the concrete situation, in order to safeguard, as far as possible, the child's right to grow up in the family of origin. Only legitimated adoption entails the total separation of the child from his or her family of origin.

Adoption shall be judicially pronounced when the following conditions are met with respect to the child: 1) the child is deprived of material and moral assistance by parents or relatives who are obliged to provide for him/her (situation of abandonment); 2) the child has been judicially declared in a state of adoptability.

As soon as the proceeding starts, the parents of the child shall be immediately informed and if the child does not have them, relatives up to the fourth degree of kinship who have significant relations with the child shall be notified.

The President of the Juvenile Court shall invite the parents and relatives (up to the fourth degree of kinship) to appoint a lawyer of their choice; if they do not have one, a lawyer shall be appointed by the Court.

Parents or relatives take part in the proceedings assisted by a defence counsel and can take part in all the investigations ordered by the court and submit requests in order to view and request copies of the documents in the court file.

It is necessary to ensure that the Public Prosecutor's Office and all interested parties in the proceedings, as well as the child who has reached the age of 12 years or younger, are heard by the Court in chambers, with the caveat that if he or she is not heard, the proceedings are null and void.

The child is represented by an autonomous person (a guardian or a special curator), who, if he or she is a lawyer, can take over the child's legal representation or appoint a lawyer.

Local Bars organize the right training course for that lawyers and ensure the necessary professional skills for the special kind of practitioners.

6. Criminal justice for minors

The criminal trial of juvenile offenders is ruled by the law 448/1988 and is inspired by a number of fundamental principles, also referred to in the relevant international conventions, and is therefore "child-friendly".

Among the inspiring principles are the following

6. 1. Principle of adequacy

Art. 1, par. 1, Law no. 448/1988 provides that the measures are: "applied in a manner appropriate to the personality and educational needs of the minor".

The judge's decision must take into account the minor's family situation, personal problems and educational background.

6.2. Principle of minimum offensiveness

The process must avoid that the contact of the juvenile with the penal system may compromise the harmonious development of his/her personality and social image with consequent danger of marginalization.

The judge's decision should not interrupt the ongoing educational processes and should avoid as much as possible the entry of the child into the criminal circuit allowing him/her to use alternative means.

Juvenile proceedings must concern serious facts, otherwise they should be avoided.

6.3. Principle of non-stigmatisation

This principle is an extension of the principle of minimum offence as it concerns the individual and social identity of the minor, which it is intended to protect as far as possible.

For these there are various institutions such as :

- judgement not to proceed due to irrelevance of the fact (Article 27 of Presidential Decree 448/1988)
- judicial pardon (Article 169 of the Criminal Code)
- extinction of the offense due to the positive outcome of the trial (Article 29 of Presidential Decree 448/1988)
- the prohibition to disseminate images and information on the identity of the child (Art. 13 Presidential Decree 448/1988)
- the conduct of the trial in camera (Art. 33 Presidential Decree 448/1998).

6.4. Principle of residual detention

Prison must be avoided as much as possible for minors.

The penalties are the same as for adults: pecuniary or custodial.

In the event of conviction, the penalty is reduced by up to a third compared to the penalty provided in general for the specific offense (Art. 98 of the Criminal Code).

The whole system is inspired by the so-called educational finality, whereby the trial must not interfere with educational continuity.

7. Special criminal consequences for minors and measures of protection and aid

For the realization of these principles juvenile justice is organized as follows:

There is a District Juvenile Court (one per region) and its Prosecutor's Office.

In each Juvenile Public Prosecutor's Office there is a Judicial Police Section with specific training.

In each court there is a Court of Appeal and a Supervisory Magistrate.

At every stage and level of the juvenile proceedings, the Judicial Authority avails itself of social and psychological assistance services also at territorial level.

The judging body, pursuant to Article 50 RD 12/1941, provides that the Ordinary Juvenile Court is composed of two judges and two experts, a man and a woman, experts in psycho-social matters, with the task of supporting the decision-making phase, which is the exclusive competence of the magistrate, with advice and technical opinions. .

7.1. Legal Aid

Minors who do not have their own lawyers are assisted by public defenders registered in a special list with a specific preparation.

The minor is admitted ex officio to the Patrocinio a spese dello Stato.

Art. 118 of Presidential Decree no. 115/2002 grants favorable treatment to minors: the minor's public defender is exempted from the need to initiate the procedure for admission to legal aid at the State's expense, and from the need to prove that he/she has unsuccessfully exhausted the procedures for the recovery of professional credits, provided for by art. 116 for the public defender of a person of age. The rationale of the discipline has been identified by case-law as the special protection due to the minor's patrimonial capacity, which is presumed by law to be non-existent or in any case lower than that of the defendant who is of age (Criminal Court of Cassation, section IV, 3 April 2008, no. 34985).

8. The position of minors of incarcerated parents

The Italian Ministry of Justice and the The National Ombudsman for Childhood and Adolescence signed a Memorandum of Understanding regarding the position of minors of incarcerated parents.

Those are the inspiring principles.

- Favoring the maintenance of contacts between imprisoned parents and their children, always safeguarding the minor's superior interest;
- Highlighting the peculiarity of imprisoned parents' children, so that regulatory interventions and measures are promoted, which allow for this social group's need for parental and emotional relationships without, however, producing further stigma and discrimination against them;
- Protecting children's right to an emotional and continuing bond with their imprisoned parent, who has a duty and a right to play his/her parental role;
- Supporting family and parental relationship during and beyond detention, assisting the family and, in particular, supporting the minors who are emotionally, socially and economically damaged, with frequent negative repercussions on their health and effects also on their dropping out of school;
- Overcoming barriers connected to prejudice and discrimination with a view to a process of social integration and deep cultural change, which is necessary for the project of a supportive and inclusive society.

- Considering the articles, undersigned in this Memorandum of Understanding, as reference in making decisions and in establishing the modus operandi as to what concerns all parents, even minor ones, who are subject to measures entailing restrictions of liberty;
- Ensuring that is offered to mothers and fathers in prison the support along assisted paths to parenthood.

Basically, The Ministry of Justice, with the collaboration of the Guarantor Authority for Childhood and Adolescence and the Association Bambinisenzasbarre ONLUS, commits to implementing all necessary actions so that:

1. the choice of the detention place for a parent with minor children takes into account the need to guarantee the possibility of direct contact between child and parent during his/her stay in prison;
2. a minor can visit the imprisoned parent within a week from the arrest and, on a regular basis, from then on;
3. in all waiting rooms a children's space is equipped, where minors can feel welcome and recognized. In these spaces, operators will welcome and supply family members with what is needed for a decent wait (like a bottle warmer or a changing table) and young children with resources such as toys or drawing tables, in order to prepare them to the meeting with their imprisoned parent;
4. every visiting room, even small ones, provides a "children's space" that is reserved to playing. Where the building allows it, to equip a separate space intended as a playroom. This plan will be gradually implemented, becoming fully at least in Institutions for the execution of prison sentences (establishments where longer sentences are served);
5. buildings are accessible to disabled minors or to those with special access needs;
6. visits are organized over six days a week, allowing at least for two afternoons so as not to prevent minors from attending school. Visits are to be scheduled also on Sundays and public holidays;
7. minors are given information appropriate for their age about visiting procedures and rules, as well as information on what can be taken to visits and on how security checking procedures are handled on their arrival in the prison. This information must be provided in various languages and various formats (for example through large size posters, video and audio versions that are easily understood even by smaller children);

8. security checks are adequate and in proportion to minors' rights and conditions, considering, in particular, their right to privacy, to physical and psychological integrity, to safety;
9. children are offered the possibility to visit their parents also with special attention to privacy, when it is necessary and in particular circumstances;
10. minors are allowed to acquire knowledge of their parents' life under detention and, where the facilities allow it and if it is seen as appropriate in the minors' superior interest, to visit some of the spaces which their imprisoned parents frequent (for example, the canteen or recreation rooms or workshops or places of worship);
11. alternative accompaniment for minors from 0 to 12 years of age is provided, in case the other parent or a reference adult is not available. This aim can be achieved with the help of qualified social workers, or permission can also be given to members of non-governmental organizations (NGO) or associations that are active in this field ;
12. in detention centers, wherever possible, "groups of experts in support of minors" are organized, with special attention to younger children, in order to assess regularly how they experience prison visits, in order to favor contact with parents also through different means and in order to provide advice about possible improvements to facilities and procedures.

POLAND

1. Introduction

Access to justice is synonymous with the right to an effective remedy before a court, i.e. the right to a fair trial.

According to the Charter of Fundamental Rights of the European Union, “Everyone has the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone has the opportunity to obtain legal advice, use the help of a defense lawyer and representative ”.

2. Legal conditions for access to justice

2.1. Access to court

The right of access to a court (based on the right to a fair hearing) should be effective for all people, irrespective of their financial resources. This requires the state to take steps to ensure equal access to proceedings, for example by establishing appropriate legal aid systems. Legal aid can also contribute to the administration of justice as unrepresented parties to proceedings are often unaware of the procedural rules and require significant assistance from the courts, which may delay proceedings.

Court costs can help the effective administration of justice (for example, by discouraging abusive litigation or reducing administrative costs), but they can also limit access to justice. Excessive court costs can deprive individuals of their right of access to a court.

The right of access to court means access to competent courts, interpretation, access to information and the availability of court judgments. It may also relate to geographic remoteness from court if its location prevents applicants from effectively participating in the proceedings.

To qualify as a court, an authority must:

- i. be constituted by law;
- ii. be permanent;
- iii. be independent and impartial;
- iv. include an adversarial procedure;
- v. have compulsory jurisdiction;
- vi. comply with the law.

2.2. Process guarantees

2.2.1. Independent and impartial court

The requirement of independence obliges the court to act as a decision-making body, independent of the administrative bodies and the parties to the dispute.

Impartiality has two components:

- i. a subjective element of the judge's personal bias or bias;
- ii. an objective element relating to issues such as the impression of bias.

2.2.2. Fair and public hearing of the case

One of the basic requirements of the right to a fair hearing is the principle of "equality of arms" between the parties. Equality of arms involves ensuring that each party is given a reasonable opportunity to present its case under conditions which are not less favorable to either party to the opposing party.

Another essential element of the right to a fair hearing is the right to adversarial proceedings. In practice, the right to an adversarial procedure covers:

- i. the right to know all evidence submitted to a court in order to influence its decision and to comment on it;
- ii. the right to sufficient time to examine the evidence before the court;
- iii. the right to present evidence.

It is for the courts to consider whether the applied procedure as a whole complies with the requirements relating to the right to an adversarial procedure.

The right to reason a judgment is another key aspect of the right to a fair hearing. The grounds of the judgment indicate that the case has been examined properly and enables the parties to bring an appropriate and effective appeal. Courts are not required to provide detailed answers to each argument, and the duty to state reasons varies according to the nature of the decision and the circumstances of the case. In civil proceedings, courts are required to justify their judgments sufficiently to enable individuals to lodge an effective appeal (right to appeal).

Access to justice also includes the right to a public hearing. This helps promote trust in the courts through visible and transparent justice. The right to a public hearing of the case implicitly includes the right to an oral hearing.

Professional confidentiality may also justify restrictions. Children are clearly protected and a whole category of proceedings can be excluded because of the need to guarantee their protection.

2.2.3. Reasonable timing

The requirement to terminate the proceedings within a reasonable time applies to all parties to the court proceedings and its purpose is to protect the parties concerned against excessive procedural delays. Excessive delays can violate the rule of law and deprive you of access to a court. Delays in obtaining and executing judgments can constitute a procedural barrier to access to justice. States must organize the legal order in such a way that the courts comply with their obligation to deal with cases within a reasonable time.

States should guarantee access to special legal paths to pursue claims arising from unreasonably long proceedings.

Four criteria are used to assess the reasonable duration in proceedings:

- i. the complexity of the case;
- ii. the behavior of the applicant;
- iii. the behavior of the competent authorities;
- iv. the importance of the case for the complainant

However, a balance must be struck between the swift procedure and the proper administration of justice. For example, the urgency of resolving a case may not result in the defendant being deprived of his rights to defense.

States must organize the legal order in such a way that the courts can respect the guarantees of obtaining a final judgment within a reasonable time. However, the responsibility for the preparation of the case and the speedy conduct of the trial rests with the court.

2.3. Access to legal / procedural representation

2.3.1. Obtaining legal advice

The right to obtain legal advice, to use the assistance of a defense lawyer and attorney-in-fact is to ensure that individuals have the right to a fair trial and to exercise their rights. The right to a fair trial includes the right of access to a court. Individuals may require - and therefore the state may be required to provide - services of representation or legal aid to ensure they have access to a court and a fair trial.

2.3.2 Assistance by a defense attorney and representative

Legal aid may, for example, include free legal representation or representation by a solicitor or exemption from legal costs, including court costs. These types of arrangements can run alongside other complementary support systems, such as

pro bono defense, legal aid centers and legal protection insurance - which may be state-funded, organized by the private sector or managed by an NGO.

2.4. Legal remedies (appeals)

Legal remedies are sufficient to guarantee effective judicial protection of rights. This commitment is based on the principles of effectiveness and equivalence. The principle of effectiveness requires that national regulations neither prevent nor excessively hinder the exercise of rights. The principle of equivalence requires that the conditions relating to claims arising from EU law should not be less favorable than those relating to similar domestic cases.

3. Application of the law to minors (children)

3.1. Introduction

The principles of applying the law to children are based on the guarantees of procedural rights generally applicable in the legal system, which are enjoyed by every person facing the administration of justice.

The child should be empowered to participate in procedures and decisions by: [...] being able to express his views in any judicial and administrative proceedings relating to the child, either directly or through a representative or appropriate body, in accordance with the procedural rules of domestic law (Article 12 of the "Convention on the rights of the child").

In the Polish legal system, it has been assumed that a minor, i.e. a child, is anyone who is under 18 years of age, and anyone who has entered into marriage before the age of 18 obtains the age of majority (Article 10 of the Civil Code).

3.2. Liability

Civil liability depends on the concept of legal capacity and the age of the child. A minor who is under the age of 13, as a rule, is not responsible for the damage caused as a legally incapacitated person (Article 426). The legislator assumed that persons under 13 years of age cannot be blamed due to the insufficient level of intellectual development (maturity). However, someone should compensate and repair the damage. In such cases, the "Civil Code" introduces the principle of liability for other people's acts, adopting the principle of presuming the supervising person's guilt.

A minor who has reached the age of 13 and under the age of 18, due to limited legal capacity, may or may not be liable for the damage caused. This is determined

each time by the court's assessment whether, due to the minor's age, he or she has reached sufficient maturity to be fully guilty - the condition is that the minor recognizes his own action and its consequences, and is aware of the reprehensibility of his behavior.

3.3. Responsibility in supervision

The person most frequently supervising a child is the parent (legal guardian). In the case of a child entrusted with supervision (care) in a kindergarten, school, sports club, hospital or other institution, it may also be: a teacher, tutor, trainer, instructor, doctor, etc. improperly exercised. The supervisor can discharge himself from responsibility when he proves that the supervision was properly exercised. The responsibility for the child entrusted to supervision is connected with representing the child during the day-to-day care of it, for the time of the care entrusted to it. In emergency situations, when it is not possible to notify the parent, requiring the child to provide direct help or calling the appropriate assistance services (e.g. emergency room) or intervention (e.g. the police), such actions are taken by the person who has direct supervision over the child or their superior.

3.4. Criminal responsibility

Any minor who commits a prohibited act after the age of 13 but not older than 17 shall be liable under the provisions of the "Act on Proceedings in Juvenile Matters". In the case of minors, punishable acts are prohibited acts defined by law as: crimes, fiscal offenses or petty offenses (defined in the Code of Petty Offenses). These include: disturbing public order, bullying animals, damaging signs or devices to prevent danger, theft or misappropriation of property, fencing, destroying or damaging property, obstructing the use of devices intended for public use, and many others. Persons under the age of 18, as minors, are subject to the provisions of the "Act on Proceedings in Juvenile Matters" in matters relating to the prevention and combating of demoralization. The situations where minors are at risk of demoralization are: alcoholism, intoxication, prostitution, avoidance of compulsory education, compulsory education, vagrancy (truancy), participation in criminal groups, violation of the rules of social coexistence (prohibited acts).

3.5. Process guarantees

The guarantees of the child's procedural rights reflect well the principles of respecting the rights and dignity of the child in court proceedings, as set out in the Convention on the Rights of the Child. These are:

- i. Presumption of innocence until proved guilty according to law;
- ii. informing about the charges against him;

- iii. providing legal and other assistance in preparing and presenting your defense;
- iv. the case is dealt with without undue delay by a judicial authority in a fair and lawful process;
- v. ensuring the presence of parents or a legal guardian;
- vi. not to use coercion when giving evidence and in admitting guilt;
- vii. having the right to appeal the decision and other related remedies to a superior, competent, independent and impartial authority or judicial body;
- viii. respect for matters related to personal life at all procedural stages.

The above guarantees are manifested in additional, special treatment of children, according to which:

- ix. children in criminal proceedings have the right to be treated fairly and in a friendly manner;
- x. court proceedings should be appropriate to the needs of children to ensure their effective participation;
- xi. children have the right of access to a lawyer from the early stages of criminal proceedings and from the first questioning by the police;
- xii. children may only be deprived of liberty as a last resort and for the shortest possible time;
- xiii. children deprived of their liberty must be treated according to their age and with respect for their dignity;
- xiv. children should not be kept together with adults;
- xv. Child victims and witnesses have the right to protection from further victimization, to rehabilitation and reintegration, and to effective participation in criminal and alternative proceedings.

3.6. Legal representation of a child

A child cannot defend his rights on his own. Before the court, she is represented by a legal representative, who may be the mother, father or legal guardian. Representing the best interests of the child, they may apply for the status of: aggrieved party, auxiliary prosecutor or civil plaintiff. These are very important rights of the people representing the child. The knowledge and use of these institutions allows you to take advantage of a number of rights that are favorable to the child in court proceedings. A parent may not, acting as a legal representative, exercise the rights of a minor as an aggrieved party in criminal proceedings, if the accused is the other parent.

In such a situation, a guardian is appointed at the beginning of the proceedings, who will represent the interests of the child in the proceedings.

3.7. Child - A witness in court proceedings

Polish law, both in the civil and criminal procedure, does not impose any formal restrictions on the age of a person who may be called as a witness. The provisions of the "Code of Civil Procedure" are an exception, stipulating that in matrimonial matters (for divorce, annulment of marriage, establishing the existence or non-existence of a marriage), minors under the age of 13 and descendants of the parties (children) may not be examined as witnesses, who are under the age of 17 (Art. 430). Another, but obvious limitation to the use of children's testimonies in proceedings is the material condition of the ability to perceive and communicate one's observations provided for in the Code of Civil Procedure (Art. 290). People who do not have this ability (e.g. small children) cannot be witnesses.

The second issue is the minor's personal participation in matters relating to him. A provision was introduced in the "Family and Guardianship Code", imposing an obligation on the court to hear a child under 13 years of age, if he or she can understand the meaning of adoption - a 13-year-old child is obligatorily heard (Art. 118 § 2). , younger children, e.g. 5-year-olds, may be asked for consent or opinion. The child may also comment on the change of surname and first name. in the part concerning the current birth certificate (Articles 48 and 49).

The final decision as to the minor's participation in the proceedings is made by the court, taking into account educational considerations.

3.8. Child - victim of violence

Child - the victim of the victim may take part in the criminal trial. It acquires the status of an aggrieved party. The rights of his legal representative or the person under whose care the victim remains (Art. 51 § 2).

Helping children - victims of violence also protection of the interests of the judicial initiator through, among others:

- i. requesting the setting aside of the hearing in public, when the case concerns an offense related to the environment, morality, family and care;
- ii. arranging for the victim to be interviewed before the second stage;
- iii. an allowance to the interviewing of an injured person in the procedural services, if for evidence that the allowance may be an embarrassing act;
- iv. A court to resolve issues that have problems with the personal case or to strive for the victim's common sense, and not to resolve the merits of the case.

3.9. Right to remain silent

A child has the right to refuse to testify. The child may also refuse to answer certain questions. Under Art. 185 of the Code of Criminal Procedure, a child may exercise the right to refuse to testify if they concern a person closest to him. The body conducting the interview must be sure that the child has understood the instruction given to him and made a conscious decision based on it. This issue should also be solved with the participation and assistance of an expert.

3.10. Hearing "one time"

According to the solution adopted in Art. 185a of the "Code of Criminal Procedure" in cases of offenses against sexual freedom and decency of the aggrieved, who at the time of the act was under 15 years of age, should be interviewed only once, unless important circumstances come to light, the clarification of which requires re-examination, or the accused requests it who did not have a defense attorney during the first questioning of the aggrieved party. The hearing is conducted by the court at a session with the participation of an expert psychologist. The following persons have the right to participate in the hearing: the prosecutor, the defense attorney and the representative of the accused. The accused may also be present at the questioning, as it does not limit the freedom of expression of the questioned person. The report of such a hearing shall be read at the main hearing. It can also be an audio recording of the interview. The above procedure is also applied in the case of the hearing of a witness who, at the time of the hearing, is under 15 years of age, and the case concerns a violent crime, an unlawful threat or a sexual offense. The hearing takes place if the testimony of such a person may be of importance for the conducted proceedings.

Evidence in the form of the child's testimony is full-fledged evidence. The child's testimony, even if it concerns only the description of events, without analyzing their significance, may significantly affect the course of the proceedings. These statements must, however, be accompanied by an expert opinion - a psychologist, who should answer the question whether the child was able to perceive the situation correctly and recreate it correctly, whether he is prone to lie or confabulation. Evidence from the child questioning carried out in this way meets the procedural requirements. It also solves the issue of educating the child about criminal liability for making false statements; such instruction is received by an expert (and to a much greater extent) - he is the one who authenticates these testimonies with his professional knowledge. The credibility of the testimony is confirmed by the expert in the opinion issued on the order of the court.

3.11. Effective participation in the procedure

Examples of requirements for effective participation in proceedings include: presence of a child at hearings, holding hearings in closed doors, limited publicity, ensuring that the child understands what is going on and reducing the formality of court hearings.

3.12. Access to legal aid

Where a child is deprived of liberty, the person with parental responsibility shall be informed of the deprivation of liberty and the reasons for the deprivation of liberty, unless this would be contrary to the best interests of the child, in which case another appropriate adult shall be notified. In addition, the right of suspects / accused to access a lawyer includes the right to meet in private and communicate with the lawyer representing them, including prior to the first questioning, the right to have a lawyer present and participate effectively during questioning, and the right to have a lawyer present during investigations or evidence.

3.13. Establish specialized courts or judges for children

There are "specialized" courts in the form of family and juvenile divisions

3.14. Use of child-friendly facilities for questioning

There are specially designed or adapted rooms for interviewing children, the so-called "Blue rooms" equipped with venetian mirrors and enabling judges and other people to observe the course of the interrogations.

4. Barriers to access to justice

4.1. Court costs

Excessive court costs can deprive individuals of their right of access to a court.

4.2. Excessive formalism

Excessive formalism (restrictive interpretation of procedural rules) could deprive applicants of their right of access to a court. This may be manifested in a restrictive interpretation of limitation periods, procedural rules and evidence proceedings.

4.3. Evidence thresholds

In order for individuals to obtain adequate compensation in court, they must submit sufficient evidence in the case. If the evidence thresholds are too high, actions brought to the courts may be doomed to failure and individual rights may be unenforceable.

4.4. Limitation periods

Limitation periods define the time limits for a party to the proceedings to submit a claim or notify the other party of the claim. The imposition of reasonable time limits and procedural conditions on the lodging of claims can contribute to the promotion of sound administration of justice by providing legal certainty and finality, and protecting potential defendants / accused persons from past claims that would be difficult to oppose due to the passage of time.

4.5. Immunities

Immunities are a very special kind of procedural obstacle. States may also introduce immunities as a safeguard against claims. Substantive immunity is an exemption, in whole or in part, from a legal process - for example, a legal obligation, sanction or prosecution. Some immunities serve to fulfill obligations under public international law - for example, state or diplomatic immunity; others, in turn, may be awarded at national level - for example to protect public officials from accountability for decisions made in the performance of their duties or to protect the freedom of expression of members of parliament.

4.6. Failure to execute judgments

Failure to execute court judgments limits access to justice. This can undermine the protection of fundamental rights and deprive the individual of effective judicial protection. Thus, non-execution of court judgments is also tantamount to a breach of the rule of law.

4.7. Resources

The allocated human and financial resources are insufficient. Judges and social workers are overloaded with work and the staff shortage is acutely felt. Given the workload and the needs of children involved in the procedures, insufficient resources are available.

ROMANIA

According to art. 38 of the Romanian Civil Code the minor is the person who has not reached the age of 18 and who does not have the capacity to conclude single civil legal acts. The minor can acquire this capacity before adulthood only through marriage (art. 39 of the Civil Code) or when this capacity is recognized by the court of guardianship provided that he reaches the age of 16. The minor who has reached the age of 14 has a restricted capacity to exercise (art. 41 paragraph (1) of the Civil Code).

1. Access to Justice for minors in civil matters under parental authority

The access to justice of minors is regulated by art. 57 of the Civil Procedure Code and is allowed only if it is represented, assisted or authorized under the terms of the Civil Code.

1.1. The minor who has not reached the age of 14

For minors who have not reached the age of 14, the legal documents are concluded, on their behalf, by their legal representatives, respectively by parents or guardians (art. 43 paragraph (2) of the Civil Code).

1.2. The minor who has reached the age of 14

The legal acts of the minor who has reached the age of 14 are concluded by him, with the consent of the parents or, as the case may be, of the guardian, and in the cases provided by law, and with the authorization of the guardianship court. The approval or authorization can be given, at the latest, at the moment of concluding the act (art. 41 paragraph (2) of the Civil Code).

Acts made only by minors are annulable, even without proving a prejudice (art. 44 par. (1) of the Civil Code).

2. Access to Justice for minors in civil matters under guardianship of a guardian

The guardian will conclude on behalf of the minor who has not reached the age of 14 all legal acts.

The minor who has reached the age of 14 concludes the legal documents with the written consent of the guardian or, as the case may be, of the curator. If the act that the minor who has reached the age of 14 is to conclude is one of those that the

guardian can do only with the authorization of the guardianship court and with the approval of the family council, both its authorization and the approval will be necessary of the family council (art. 146 par. (1) and par. (2) of the Civil Code).

3. Access to Justice for minors in civil matters in conflict with parents or guardian

Whenever contrary interests arise between the guardian and the minor, which are not among those that must lead to the replacement of the guardian, the guardianship court will appoint a special curator (art. 150 para. (1) of the Civil Code).

4. Role of minor children in matrimonial disputes between parents

During the divorce process, the child can be placed with one of the parents temporarily or permanently, as the case may be (art. 919 and art. 920 of the Civil Procedure Code).

In certain exceptional cases, the following special protection measures may be taken: placement and emergency placement (art. 59 and art. 60 of Law no. 272/2004 on the protection and promotion of the rights of the child).

The placement of the child constitutes a special protection measure, having a temporary character, which may be ordered, under the conditions of this law, as the case may be, to a person or family, a foster carer or a residential service (art. 62 of Law no. 272 / 2004 on the protection and promotion of the rights of the child)

Emergency placement is a special, temporary protection measure that is established for the child who has been abused, neglected or subjected to any form of violence or for the child.

found or abandoned in health facilities (art. 68 of Law no. 272/2004 on the protection and promotion of children's rights).

5. The protection of Children during the adoption trail

The following principles must be observed throughout the adoption procedure:

- the principle of the best interests of the child
- the principle of raising and educating the child in a family environment;
- the principle of continuity in the education of the child, taking into account his ethnic, cultural and linguistic origin

- the principle of informing the child and taking into account his / her opinion in relation to his / her age and degree of maturity (matching between the child and the adopter / adoptive family)
- the principle of speed in carrying out any acts relating to the adoption procedure;
- the principle of guaranteeing confidentiality with regard to the identification data of the adopter or, as the case may be, of the adoptive family, as well as with regard to the identity of the natural parents (art. 1 of Law no. 273/2004 on the adoption procedure).

Adoption cannot be approved by the court until the child has been entrusted for a period of 90 days to the person or family wishing to adopt him or her, so that the court can reasonably assess the family relations would determine whether the adoption would be approved.

The child's ability to adapt, physically and mentally, to the new family environment will be analyzed in relation to the socio-professional, economic, cultural, language, religious conditions and any other such elements characteristic of the place where the child lives during foster care and which could be relevant in assessing its further evolution in the case of approval of adoption (art. 43 of Law no. 273/2004 on the adoption procedure)

The right to represent the child in legal acts or, as the case may be, to approve the acts he concludes, as well as the right to administer the child's property is exercised by the president of the county council or the mayor of the Bucharest municipality in whose territorial area the person resides or the family to which the child has been entrusted for adoption. The right of administration may be delegated, exceptionally, to the person or family to whom the child has been entrusted for the performance of special acts, in the interest of the child, which will be expressly mentioned in the document granting the delegation.

6. Criminal justice for minors

A minor who has not reached the age of 14 is not criminally liable.

A minor between the ages of 14 and 16 is criminally liable only if it is proven that he committed the act with discernment.

A minor who has reached the age of 16 is criminally liable according to the law (art. 113 of the Penal Code)

Detention and pre-trial detention may be ordered against a minor, exceptionally, only if the effects that deprivation of liberty would have on his personality and development are not disproportionate to the purpose pursued by the measure (art. 243 para.) 2) of the Criminal Procedure Code.)

The special detention regime for minors, in relation to the particularities of age, so that preventive measures taken against them do not harm their physical, mental or

moral development, will be established by the law on the execution of sentences and measures ordered by the judiciary during the trial. criminal law (art. 244 of the Criminal Procedure Code)

The prosecution and trial of crimes committed by minors, as well as the execution of judgments concerning them are done according to the usual procedure, with additions and derogations, such as summoning and hearing in the presence of parents or legal representatives (guardian, curator) or separate trial of minors of adults (art. 504 of the Criminal Procedure Code)

In cases with juvenile defendants, the criminal investigation bodies may request, when they deem it necessary, the assessment report to be carried out by the probation service attached to the court in whose territorial district the minor resides, according to the law. Through the evaluation report, the requested probation service can make motivated proposals regarding the educational measures that can be taken against the minor (art. 506 of the Criminal Procedure Code).

7. Special criminal consequences for minors and measures of protection and aid

A non-custodial educational measure is taken against a minor who, at the time of the crime, was between 14 and 18 years old.

As an exception to this minor, an educational measure of deprivation of liberty may be taken in the following cases:

- A. if he has committed another crime, for which an educational measure has been applied to him which has been executed or whose execution began before the commission of the crime for which he is tried;
- B. when the punishment provided by law for the crime committed is imprisonment of 7 years or more or life imprisonment (art. 114 of the Penal Code).

The educational measures are non-custodial or deprivation of liberty (art. 115 of the Penal Code)

Non-custodial educational measures are:

- A. the civic training internship;
- B. supervision;
- C. lockdown at the weekend;
- D. daily assistance.

The educational measures depriving of liberty are:

- A. hospitalization in an educational center;
- B. hospitalization in a detention center.

8. The position of minors of incarcerated parents

The minor whose parents have been incarcerated enjoys special protection until adulthood, upon request or ex officio, based on an individualized protection plan (art. 54 and art. 57 of Law no. 272/2004 on the protection and promotion of children's rights).

These measures are placement and emergency placement and have been explained in point 4 of this document (art. 59 and art. 60 of Law no. 272/2004 on the protection and promotion).

TURKEY

CHILDREN'S ACCESS TO JUSTICE IN THE TURKISH CRIMINAL LAW SYSTEM

1. Overview

In legal systems, which are usually regulated for adults, some problems can lead to more desperate situations for children. Especially in the criminal law system, where the intervention of the state on rights and freedoms can be observed concretely on the individual, even if there are exceptional regulations regarding children, problems arising from the system and some procedural habits of the judicial subjects may lead to disappearance of children within the system. This article is written to shed light on the current problems experienced by children in the Turkish criminal law system.

2. Definition of the "CHILDREN" in the Turkish Criminal Law System

According to the Turkish Criminal Code, a child defines an individual who has not turn the age of 18. In this system, every individual who has not turn the age of 18 yet, is considered a child and all the exceptional regulations regarding the children are valid for them. Children who are prosecuted with the allegation of the act of a crime, are referred to as "children driven to crime".

Within the Turkish criminal justice system, the term of children driven to crime is used to emphasize the idea that the main purpose is to improve the child, not to punish and the factors affecting children to the act of crime are mostly external factors. This term is used instead of the term "juvenile delinquent" because the concept of juvenile delinquency will remove children rather than reintegrate children to the society.

According to the Turkish Criminal Code:

- Children who are under the age of 12 at the time of committing the act of crime do not have any criminal liability. Only security measures which are regulated specifically for children can be applied to them.
- Children who are under the age of 15 at the time of committing the act of crime do not have any criminal liability if they cannot perceive the legal meaning and consequences of the act or if their ability to direct their behavior is not sufficiently developed. However, if they have those abilities, a reduced prison sentence is applicable.
- For individuals who are under the age of 18 at the time of committing the act of crime, a reduced prison sentence is applicable.

- No life sentence or aggravated life sentence can be applied for any children who has driven to crime.

3. Some specifically regulations for children and current problems

3.1. ARREST

In order to implement the arresting process, regulations have been made in accordance with the age of the children basis which is mentioned above. In that basis, children under the age of 12 can only be arrested with the intentions of obtaining information to arrest other suspects or taking necessary precautions. It is a clause designed to ensure that children of this age do not have any interact with the law enforcement authorities under no circumstances.

Children who are at the age of 12 to 18 can be arrested. This clause, which regulates that children of this age can be arrested under the same circumstances with adults, may lead to the aggrievement of children within the adult-regulated system.

From the moment of arresting, a defence lawyer is appointed from the relevant bar association to the child. The child's consent or request is not required in this regard. When the child is arrested, his/her family, relatives or the person responsible for the child is informed about the reasons for this arrest and where the child is being held. Until a relative of this child arrives, the detention process cannot be continued. However the relatives who are suspected of inciting the child to commit a crime or abusing the child should not be informed.

During the investigation, the only action the law enforcement authorities can take on children driven to crime is the arresting process, they are not authorized to take any action other than that. After informing the defence lawyer and the relatives, the child should be immediately directed to the office of the chief public prosecutor. The investigation regarding the children should be carried out by the prosecutors. Thus, it could be said that it is a system that aims to minimize the communication and interaction of the child with the law enforcement authorities. However, in practice, we see that the prosecutors refuse to carry out all the investigations regarding the children driven to crime for various reasons, and they leave other procedures to the law enforcement authorities, such as interrogating the children.

3.2. CUSTODY

Considering the difference between children driven to crime and adults in terms of custody procedures, it is seen that there are no exceptional regulations. The fact

that they are subject to the same maximum detention periods as adults, especially in terms of duration, reveals that children are unfortunately ignored within the system.

Since children under the age of 12 cannot be arrested, custody cannot be applied to them either.

As the investigation procedures regarding children are carried out by the prosecutor himself, the arrested child will be immediately directed to the prosecutor's office. Until then, the child will be held in the unit which is specifically arranged for the children. Although it is stated in the provisions of the relevant legislation that the places where children are held must be separate from adults, it is observed that this rule is occasionally violated due to the carelessness of the officers, insufficient resources and impossibilities of the unit. Indeed, keeping the child in the same place with adults comes to the fore with the excuses such as the fact that the place reserved for custody is not very large. However, this situation completely contradicts the purpose of the regulation and the benefit of the child.

3.3 DETENTION

Detention is not applicable for children under the age of 12. For children under the age of 15, detention will not be applied if an investigation is being carried out for a crime which has an upper limit of 5 years of prison. There is no exceptional regulation for other children under the age of 18, and the detention provisions for adults will also be applied to children of this age. However, this situation is against the principle of restricting people from their freedom is the last resort, especially for children. As a matter of fact, the aim of this principle is to ensure the continuation of education for the children under the age of 18, to protect them from the negative effects of the prison and to prevent the deterioration of their communication with the society.

In terms of the maximum duration of detention, children under the age of 15 will be applied half the time stipulated for adults, and three-quarters to children under the age of 18. However, the lack of a regulation in the same direction regarding maximum custody periods is rightly criticized. Protection measures, which are a practice that violates the right to personal freedom and security, should be developed considering the characteristics of children.

If the sentence stated for the crime requires a prison time of less than 1 year, allegedly committed by a child who is under the age of 18, detention will not be issued for this child.

It has been regulated that the children taken to the detention center will not be allowed to contact with adults, except for the cases listed in the law. Unfortunately, in places where there is no detention center for children, it is not possible to prevent children from contracting with adults, and this causes them to be abused,

to acquire bad habits and to learn new ways of committing crimes. As long as detention centers and prisons specifically designed for children are not established, even if they are, their conditions are not improved; these institutions continue to have the opposite effect instead of improving children. While applying for detention measures for them, it is necessary to think about the conditions of these institutions and the bad habits that children will acquire.

3.4. JUDICIAL CONTROL

Judicial control is used as a middle way between completely restricting the freedom and the complete release of the suspect, which is brought as an alternative to detention by law. In cases where it is not possible to detain children, judicial control decision may be made.

Detention may be applied for suspects who do not voluntarily fulfill the provisions of judicial control. However, in this case, priority should be given to the regulation that no detention can be applied for children who are not the age of 15 due to a crime which upper limit does not exceed 5 years. This is the way that complies with the principle of the best interests of the child.

The maximum periods regulated by law regarding the implementation of judicial control are applied at half rate for children.

3.5. PROTECTIVE AND SUPPORTIVE MEASURES

With the Code of Child Protection, some measures to be taken in the fields of counseling, education, care, health and shelter are included in order to ensure that the child is protected primarily in his own family environment. These measures are implemented only when it is determined that the child driven to crime needs protection while the trial is still ongoing. These measures are not considered as a sanction. However, it was left to the discretion of the judge to hold a hearing in the court and the child was not obliged to be heard. Although a non-sanctional decision is made here, the child's statements and opinions regarding the decision to be taken as an individual should be taken.

3.6. INTERROGATION

In accordance with the principle of the best interests of the child, judicial meeting rooms have been established with the aim of operating child-friendly procedures, interviewing children who involved in the judicial process in an appropriate environment and methods, determining their protection needs and directing them to the necessary services. Currently, as of June 2021, there are 105 judicial meeting rooms in 100 courthouses in 78 cities. However, only 293 of the 32,111 interviews held in judicial interview rooms since April 2017 were with children

driven to crime. The use of judicial interview rooms for children driven to crime being low shows that these rooms are not used in the process of interrogating children.

Children under the age of 12 cannot be interrogated due to the alleged crime; only identification of the suspect can be made. The prosecutor will personally carry out the interrogation of the children driven to crime, the law enforcement authorities will not be able to do it. The child who is arrested by the law enforcement officers, is immediately directed to the prosecutor's office after notifying his relatives and requesting a lawyer from the bar association. It is not necessary to obtain the opinion or consent of the child for the presence of a lawyer during the interrogation. Parents or guardians may be present in the interrogation process, unless it is found to be contrary to child's best interests or there is no legal obstacle.

Although the system of appointing mandatory lawyers for children driven to crime in the judicial process is a very positive method, it is observed that children cannot benefit from adequate legal assistance in the judicial process due to the lack of adequate training of these lawyers. Despite the fact that it is against the legislation, problems such as interrogating the children by the law enforcement authorities upon the order of the prosecutor have not been overcome. While the duty falls to the defense lawyers in such cases, we see that in most cases the defendants remain silent or do not oppose due to lack of knowledge.

3.7. JUVENILE COURTS

Juvenile courts are not just trying children driven to crime, they are also try to identify the reasons that push children to commit crime and take the necessary measures for their recovery in the next process. It is organized as juvenile courts and juvenile high criminal courts, making a distinction according to the type of crime which is prosecuted.

As of 2021, there are a total of 101 juvenile courts in Türkiye, 85 of which are juvenile courts and 16 of which are juvenile high criminal courts. Unfortunately, juvenile courts have not yet been established in every jurisdiction. For this reason, in jurisdictions where there are no juvenile courts, the competent courts for the trial of children driven to crime are criminal courts which are also authorized to try adults.

Considering the scarcity of specialized courts, many children have limited access to specialized judicial subjects and judicial units. Especially since there are no juvenile courts in many provinces in the countryside, the facilities provided by these courts cannot reach all children. In such cases, when it is necessary to combine the cases regarding children with adults and when it is considered that this combination is made in the general courts, it is understood that the children are often tried in the general criminal courts.

According to the latest judicial statistics published, 50.1% of the cases brought against children driven to crime are heard in criminal courts with general jurisdiction. This situation results in moving away from courts and subjects who are experts on measures specifically for children and all arrangements made in line with the protection of the best interests of the child. In addition, it causes children to be subject to judicial processes that are completely contrary to their age and mood.

HUMAN RIGHTS COMMISSION - POZNAN

*President : Artur Wierzbicki - Vice President : Izaskun Azpitarte Astobiza –
Secretary : Monique Stengel*



HUMAN RIGHTS COMMISSION EUROPEAN BARS FEDERATION

REPORT BEFORE THE GENERAL ASSEMBLY OF FBE (March 2022 - November 2022) The Meeting with FBE Presidency, November 17, 2022

*Dear Mrs President,
Dear Presidency,*

I would like to present the short composition of the FBE Human Rights Commission (HRC) activities done last months and planned in the coming:

As Commission and its Members:

1. UKRAINE / **WAR in UKRAINE form Feb. 24, 2022** – FBE HRC permanent full support (also with statements and on line meetings),
2. we took active part in the International Fair Trial Day and Ebru Timtik Award, June 14, 2022 and we act in the Steering Group for the next year 2023 on behalf of FBE,
3. we participated in the Colombia Caravana Project , August 2022
4. we successfully organized the third addition (*after Poznań 2018 and Berlin 2019*) - FBE HRC Competition on Human Rights for young lawyers and law students, Bilbao, Sept. 3-4, 2022 – Mr Ronald Elek the Winner, Cluj Bar/Romania,
5. we carry the studies on the HRC project “International Trial Observation - Turkey”, some of our representatives regularly take part in the hearings in the selected trials in Turkey,
6. we participated in several on line meetings on the persecution of lawyers in Turkey,
7. we care on independence of Judiciary and Lawyers in : Belarus / Turkey / Ukraine / Romania / Afghanistan / Colombia and Poland,
8. we go on with the project: The Prison Life Index – in process, report soon,



HUMAN RIGHTS COMMISSION EUROPEAN BARS FEDERATION

9. we permanently assist Member Bar Associations and go on with training ideas for refugee action and Lawyers in need,
10. we supported all international activities on human rights, e.g. in Ukraine, in Iran, in Afghanistan, in Belarus - website reports and press statement,
11. we will celebrate The International Day for the Elimination of Violence against Women, November 2022 and the Human Rights Day, December 10, 2022
12. HRC consists of 36 participants, working regulary (also “*on – line*” meetings), coming working session is planned in Palermo at the FBE Congress November 17, 2022.

Thank you

Yours sincerely,

ARTUR WIERZBICKI
President of
Human Rights Commission
FBE

ETHICS COMMISSION – BILBAO

President : Maria Begona Angulo - Vice President : Rod Mole - Secretary : None

No report


LEGAL EDUCATION COMMISSION - MADRID

President : Raúl Ochoa Marco - Vice President : To be determined - Secretary : Victor Gamero



ILUSTRE
COLEGIO DE ABOGADOS
DE MADRID



 Ilustre Colegio de la Abogacía de Bizkaia
Bizkaiko Abokatuen Elkargo Ohoretsua

Madrid, November 14, 2022

Dear President,

Dear Bass,

We are pleased to inform you that the FBE Legal Education Commission is working on the following projects, activities and initiatives:

➤ **FBE Internship Programme.**

This program has been created to be a key project for the future of the Commission, through which is intended to have 15-20 young lawyers participating in the internships annually. The idea is to begin this upcoming year with at least 7-8 FBE members involved.

We are the moment calling for FBE bar members to participate and the Commission is determined to begin sending interns in January 2023.

In parallel, we are currently exploring the possibility of obtaining funds to support the program. Thus, the internship expenses would be covered partially by the FBE members and partially by the aforementioned funds.

➤ **2023 FBE International Competition.**

This competition for young lawyers is going to take place sometime in 2023, which is being organized together with the FBE Arbitration Commission. The city where the competition will be celebrated is still to be determined.

On this occasion, the competition will be regarding sport arbitration.

➤ **Database of the European cities which provide "Know Your Rights Sessions".**

The Commission is currently working on elaborating a database oriented to collect information about institutions across Europe, which provide sessions for young people to get to know their rights. In addition, the Commission decided to extend the database to also cover sessions which provide overview regarding the rule of law.

The final goal of this database is to identify what European cities lack institutions providing the aforementioned type of sessions.



ILUSTRE
COLEGIO DE ABOGADOS
DE MADRID



Ilustre Colegio de la Abogacia de Bizkaia
Bizkaiko Abokatuen Elkargo Ohoretsua

➤ **Event to analyze the main issues and difficulties faced in different jurisdictions regarding legal education.**

This proposal was made by the Commission during the last FBE Congress. The Commission is at the moment elaborating an event proposal to be presented to the FBE presidency in the following weeks.

The idea is to celebrate this in-person event in some of the cities of the members of the Commission. The panels will intend to represent as many jurisdictions as possible to be able to identify the main issues and difficulties faced by lawyers in each jurisdiction.

➤ **New members.**

The Commission has recently welcomed members representatives from the following bars associations: Brussels Bar, Rome Bar, Málaga Bar, the Law Society of England and Wales, Paris Bar, Ordem dos Advogados de Portugal, Ireland Bar and Rotterdam Bar.

Víctor A. Gamero Cabo
Madrid Bar Association

ARBITRATION COMMISSION - PALERMO

President : Michele Calantropo - Vice President : Carmen Perez Andujar - Secretary : Iva Koleva

No report

EASTERN BARS COMMISSION - VOJVODINA

President : Rajko Maric - Vice President : Calin Iuga - Secretary : None

Since last meeting in Sofia, Eastern committee worked on basic things to establish future long term basic work directions of committee.

We worked a lot on field, speaking with lawyers from different bar associations and countries.

Regarding to future work Eastern Committee will follow and promote the basic values of FBE through the:

Strengthening the committee with new members.

Including also members from out of Eastern Europe in Eastern Committee.

Organizing Conferences Live-hybrid, and online without presence.

Prepare a questionnaire to define potential problems, vulnerability of our profession in different areas and countries.

MEDIATION COMMISSION - BARCELONA

President : Carles Garcia Roqueta - Vice President : No information - Secretary : No information

INFORME COMISION DE MEDIACION FBE



En el marco de estas Jornadas, y habiendo asumido, desde el Colegio de la Abogacía de Barcelona, la presidencia de la Comisión de Mediación de la FBE desde este pasado mes de junio, quiero trasladarles la aportación que podemos efectuar para la mejora de la comunicación social y la gestión de los conflictos, tan necesaria hoy en nuestra sociedad.

Desde que asumí la responsabilidad en la Junta de Gobierno del ICAB, hemos dirigido nuestra mirada hacia el recurso de la mediación y de otros métodos de gestión de las controversias, que nos abren en la actualidad un abanico amplio de posibilidades, que deben permitir ajustar a cada caso, la opción más adecuada. Junto a ello, el uso de estas vías, lo hemos querido enfocar especialmente, en la consideración a los colectivos vulnerables de nuestras sociedades (personas mayores, infancia, discapacidades, exclusión residencial, salud mental) observando cómo en estos ámbitos pueden, los medios de gestión alternativa de conflictos, suponer una vía para que puedan ser atendidos y defendidos sus intereses.

En este sentido, nos distinguimos, una vez más, en organizar un congreso sobre mediación centrado en la vulnerabilidad y como primera acción realizada al asumir la presidencia de la Comisión de Mediación de la FBE realizamos un manifiesto en relación al conflicto de Ucrania al que se nos adhirieron el resto de colegios hoy aquí representados. Si *bis pacem para bellum* (si quieres la paz prepara la guerra), una expresión latina que por mi parte la he modernizado y actualizado indicando que, si quieres la paz prepara el pacto, si quieres el pacto prepara el entendimiento, si quieres la entendimiento prepara la escucha y si quieres la escucha, prepara el reconocimiento.

Nuestro trabajo está siendo, desde el Centro ADR de Barcelona, poner de relieve y el acento también en la transparencia y obligación deontológica de la abogacía de informar y recomendar a los ciudadanos la vía que resulte más ajustada y eficiente para su caso, o incluso la posibilidad de utilizar varias de ellas de forma subsidiaria para obtener una resolución que, como sabemos, tendrá siempre unos mayores beneficios personales,

económicos y temporales y además permitirá preservar las relaciones personales o de empresa.

En esta etapa frente a la Comisión de Medición de la FBE, nuestra intención es poder disponer de la información actualizada sobre el reconocimiento legal y la efectiva implementación de la mediación y otros ADR en los diferentes estados, a fin de realizar un estudio y poder elevar propuestas de acción que sirvan para su impulso, para lo cual hemos elaborado ya un cuestionario que ha sido remitido a los representantes de los diferentes Colegios de Abogados solicitando su colaboración para esta meta. El ICAB ya había ostentado la presidencia de esta comisión con anterioridad de manos de Silvia Giménez-Salinas y M^a Eugenia Gay quienes tuvieron un papel muy destacado por los estudios que se efectuaron los cuales podrán facilitar, asimismo, una comparativa de la evolución que se ha producido durante estos años.

Esperamos que esta etapa resulte muy positiva y sea posible dar impulso a la utilización de la mediación y las ADR con un carácter universal que facilite acceder libre y voluntariamente, a todos los colectivos.

COMMISSION COORDINATION DES ACTIONS DES BARREAUX - CLUJ

President : Stanca Gidro - Vice President : None - Secretary : None



FBE – Fédération des Barreaux d' Europe
COMMISSION DE COORDINATION DES ACTIONS DES BARREAUX
COORDINATING COMMITTEE ON THE ACTIONS OF THE BARS
e-mail: FBE_commission_coordination_des_actions_des_barreaux@baroul-cluj.ro
tel. [+40729931435](tel:+40729931435), [+40728311929](tel:+40728311929), [+40744565359](tel:+40744565359), fax [+40371601597](tel:+40371601597)

ACTIVITY REPORT

I. NUMBER OF MEMBERS:

Stanca Gidro – President
Călin Viorel Iuga – Secretary
Diana Andrasoni – member
Voicu Sârb – member
Ioana Varga - member

II. MEETINGS

The Committee had three meetings on August 2, 2022, September 1st, 2022 and October 28, 2022, all in Cluj-Napoca.

III. WORK IN THE LAST 3 MONTHS

Work over the last months has focused on establishing the purpose, objectives and priorities of the Committee, annex to this report, and on attracting members.

IV. ONGOING WORK

1. ONLINE PLATFORM

The purpose is:

- to put resident citizens and, more recently, refugees in a country other than their country-of-origin face to face with lawyers who are acquainted with the law of both countries.
- to create a link between lawyers from EU member countries and beyond, in order to:
 - seek advice
 - exchange opinions
 - refer a client to a colleague who specialises in a particular area taking into account the law of a particular country/countries and the language spoken both by the client and the lawyer.

At the General Congress in Sofia in June 2022, the Committee presented a model of this platform and it will be put to the vote of the member bars at the Intermediate Congress in Palermo. The Committee continued its collaboration with the IT company RODEAPPS which has the technical solution to create the platform and whose representatives will be present at the FBE GENERAL MEETING in Palermo.

2. ATTRACTING MEMBERS

The Committee has drawn up a letter, which I have attached hereto and we ask the FBE Secretary to send it to all the deans of the member bars.

V. PROJECTS

1. Online platform.
2. Creation of joint action teams between Romanian and Polish lawyers on the issue of Ukrainian refugees.
3. Online publication on the FBE page of Guides in the Ukrainian language summarizing refugee rights in all EU member states and EU legislation.
4. Publication on the FBE page of all links through which unions and/or bar provide PRO BONO legal assistance to refugees by and through their lawyers.

VI. DIFFICULTIES

The work of the Committee is currently affected by:

- lack of members (we hope that the letter that will be sent to all the deans of member bars will result in more members being appointed to our Committee)
- possible change of view of the presidency due to the annual change of the FBE President.

Committee President,
Stanca GIDRO, Lawyer PhD

Secretary
Călin Viorel IUGA, Lawyer



FBE – Federation des Barreaux d' Europe
COMMISSION DE COORDINATION DES ACTIONS DES BARREAUX
COORDINATING COMMITTEE ON THE ACTIONS OF THE
BARS

e-mail: FBE_commission_coordination_des_actions_des_barreaux@baroul-cluj.ro

tel. [+40729931435](tel:+40729931435), [+40728311929](tel:+40728311929), [+40744565359](tel:+40744565359), fax [+40371601597](tel:+40371601597)

OBJECTIVES OF THE COORDINATING COMMITTEE ON THE ACTIONS OF THE MEMBER BARS

PURPOSE

The FBE is the sum of the member bars.

The purpose of the Committee is to review all aspects related to the coordination and cooperation of the bars within the FBE and to make appropriate recommendations for improving the interaction and functioning of the member bars and their lawyers at the level of the Federation.

OBJECTIVES

The objectives of the Committee are to ensure the unity and vitality of the Federation and its indispensability to the legal profession against the backdrop of European technological and demographic changes in the practice of law.

MEANS

The Committee will collaborate with the FBE Presidency and the other Committees in the implementation and development of coordination and cooperation programmes between Bars and between lawyers.

The Committee is empowered to investigate, evaluate, develop and disseminate information, techniques and best practices designed to assist cooperation among the Federation's member bars and lawyers. As part of these activities, the Committee will:

- study the demographic information on the mobility of lawyers and citizens from the member states and the existing methods of communication to member and non-member bars to improve awareness of Federation services and actions,
- consider additional services and benefits for Federation member bars,
- collaborate with other Federation Committees and
- identify ways to improve Federation's programs and resources at the regional and local levels in cooperation with member bars and other lawyers' associations.



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e-mail: FBE_commission_coordination_des_actions_des_barreaux@baroul-cluj.ro
tel. [+40729931435](tel:+40729931435), [+40728311929](tel:+40728311929), [+40744565359](tel:+40744565359), fax [+40371601597](tel:+40371601597)

**To the Presidents
of European Bars FBE Members**

**Subject: Membership of the COORDINATING COMMITTEE ON THE ACTIONS OF
THE BARS**

Cluj-Napoca, November 9, 2022
Mister President,
Dear Colleagues,

It is a great honour for Cluj Bar Association, a member of FBE, and for myself too, to be elected the President of the Coordinating committee on the actions of the Bars, but also for Cluj Bar Association to host this Commission for the next two years.

Our duty is to establish a working program for the upcoming two years. The objectives of the Committee are mentioned in the annex to this letter.

To accomplish this important task, we would kindly ask you if you intend to participate in this Committee, directly or by representation. Our intention is, if this is your wish too, to approach and submit suggestions on topics, subject matters regarding the cooperation of our bars and also to set up a work program that will be voted at the meeting in Palermo, on November 17, 2022.

The members of the Committee shall be informed about the research topic of the following session before the meeting. Therefore, each member of the Committee will be asked to submit his/her written paper on the given topic before the meeting day.

We kindly ask you to appoint a representative for the Coordinating committee on the actions of the Bars and to send us Your suggestions as soon as possible, so that we can forward the complete list of our Committee members to the Presidency.

Thank you in advance for your support.

Please accept, Mr. President, the assurances of my highest consideration.

Stanca Ioana GIDRO, PhD.

PRESIDENT OF THE COORDINATING COMMITTEE ON THE ACTIONS OF THE BARS

COMMISSION FUTURE OF THE PROFESSION – LUXEMBOURG

President : Bertrand Christmann - Vice President : Marc Labbé - Secretary : None

**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**



**CONGRES GENERAL
Palerme, 17-19 November 2022
Lawyer's under Attack**

Rapport de la commission Futur de la profession

Thème : "Young lawyers under attack"

1. Liste des membres actifs

Eric Heinke : Austria Wien, heinke@heinke.at

Carmen Rodriguez : Malaga Spain

Cecile Schwal : Nice, France, Cschwal-schwal-avocate.fr

Amédée Kasser : Switzerland Lausanne, Kasser@ksavocats.ch

Salvador Gonzales : Martin Malaga, decano@abogaciademalaga.es

Josef Fox : Poland Katowice

Mehmet Durakoglu : Turkey Istanbul, mehmetdurakoglu@istanbulbarosu.org.tr

Sabrina de Santi : Italy Verona, desanti@lawlab.it

Marc Labbe : Neuchatel Switzerland, ml@frotepartner.ch, vice président

Bertrand Christmann : Luxemburg, b.christmann@christmannschmitt.com, président

2. Accueil d'un nouveau membre

Après le congrès de Sofia, la commission Adam Chudzinski, représentant du barreau de Gdansk a contacté la commission pour en devenir membre.

Voici la présentation que Adam a fait circuler :

Adam Chudziński – Attorney at Law, member of the Gdańsk Bar Association, graduate of the Faculty of Law and Administration (2013) and the Faculty of Social Sciences (2009) of the



Fédération des Barreaux d'Europe, 3 rue du Général Frère – F 67000 STRASBOURG
Téléphone : +333 88 37 12 66 ♦ Télécopie : +333 88 36 87 52
E-mail : commissions@fbe-strasbourg.eu Web : www.fbe.org

University of Gdańsk. In the years 2021-2022 LL.M. student at the Kozminski University in Warsaw (LL.M. in International Commercial Law).

From 2013 active member of the Gdańsk Bar Association. Former member of the commission of promotion and development of the profession and from 2020 a spokesman for the Gdańsk Bar Association.

Many years associated with international business, in particular with the financial industry. He has many years of experience as a lawyer, specializing in IT law, banking law, commercial companies law and labor law, as well as family law. Since 2019 he has been running his own practice. He is fluent in legal English.

Privately interested in a modern approach to law, including Legal Design and the use of technology in the practice of the profession of Attorney at Law.

Nous sommes heureux de l'accueil au sein du groupe.

3. Compte-rendu des travaux

La réunion qui s'est tenue en juin 2022 à Sofia a permis de consolider un noyau dur de membres actifs dont la liste est reprise ci-dessus.

Il s'agit pour l'essentiel de membres nouveaux qui se sont manifestés spontanément lors du congrès de Sofia.

Cette réunion a donc été la première réellement active depuis la reprise des congrès en présentiel.

Comme déjà rapporté lors du précédent compte-rendu, la liste des membres inscrits avant le COVID s'est avérée largement obsolète.

Afin de mieux faire connaissance et de délimiter le périmètre des travaux pour le futur, lors de la réunion du mois de juin 2022, chaque membre a d'abord été invité à se présenter et à évoquer les questions et problématiques relatives à la profession et qui concernent plus particulièrement son barreau.

Au terme de ces échanges, il est vite apparu que les sujets « classiques » concernant la profession sont d'actualité dans la plupart des barreaux présents :

- Défense des principes et spécificités de la profession, secret, monopole, indépendance
- Problématiques liées à l'innovation technologique
- Concurrence des acteurs non régulés, spécialisation
- Relations avec la justice

Au-delà de ces sujets, une série de questions a animé l'ensemble des barreaux présents, à savoir le futur et les spécificités des jeunes avocats.

Au terme de la réunion, une synthèse a été faite qui a d'abord circulé entre les membres et transmis avant le congrès de Palerme au secrétaire de la FBE.

Fort de cet inventaire des questions actuelles et afin de placer les travaux de la commission futur dans le cadre général du congrès de Palerme, il est proposé d'appréhender ces sujets sous le prisme de la situation spécifique des jeunes avocats.

C'est ce que doit refléter le titre de la réunion de la commission qui se tiendra à Palerme, « *Young lawyers under attack* ».

Le but est d'apporter pour chaque barreau membre, réponse à un questionnaire de quinze questions relatives à la situation des jeunes avocats et aux enjeux spécifiques qui les concernent.

La réunion de Palerme sera consacrée à l'analyse comparative des réponses en vue de dégager d'éventuelles lignes de forces communes.

Ce travail devrait ensuite être alimenté par les apports écrits de chaque membre avant le prochain congrès, en vue d'une synthèse et si possible de recommandations.

La préparation de ces travaux qui a été communiquée aux membres est jointe au présent rapport.

Bertrand Christmann
Commission Futur de la profession

**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**



**GENERAL CONGRESS
Palermo, 17-19 November 2022
Lawyer's under Attack**

**Meeting of the Future of the profession commission
17 November 2022 4pm
Ordine degli Avvocati di Palermo, Piazza Vittorio Emanuele Orlando**

“Young lawyers under attack”

Summary

- 1. Current members of the commission, attendance list**
- 2. Presentation and welcome to our new member : Adam Chudzinski : Gdansk Bar**
- 3. Approval of the minutes of the Sofia meeting June 2022**
- 4. Topic of the meeting : Young lawyers under attack**
 - 4.1 Introduction and context**
 - 4.2 Comparative work and questions to our members**
- 5. Miscellaneous**
- 6. Date of the next meeting of the commission**



**Fédération des Barreaux d'Europe, 3 rue du Général Frère – F 67000 STRASBOURG
Téléphone : +333 88 37 12 66 ♦ Télécopie : +333 88 36 87 52
E-mail : commissions@fbe-strasbourg.eu Web : www.fbe.org**

1. Current members of the commission, attendance list

Eric Heinke : Austria Wien, heinke@heinke.at

Carmen Rodriguez : Malaga Spain

Cecile Schwal : Nice, France, Cschwal-schwal-avocate.fr

Amédée Kasser : Switzerland Lausanne, Kasser@ksavocats.ch

Salvador Gonzales : Martin Malaga, decano@abogaciademalaga.es

Josef Fox : Poland Katowice

Mehmet Durakoglu : Turkey Istanbul, mehmetdurakoglu@istnbulbarosu.org.tr

Sabrina de Santi : Italy Verona, desanti@lawlab.it

Marc Labbe : Neuchatel Switzerland, ml@frotepartner.ch

Bertrand Christmann : Luxemburg, b.christmann@christmannschmitt.com

2. Presentation and welcome to our new member :

Adam Chudzinski : Gdansk Bar, adam.chudzinski@oirp.gda.pl

Adam Chudziński – Attorney at Law, member of the Gdańsk Bar Association, graduate of the Faculty of Law and Administration (2013) and the Faculty of Social Sciences (2009) of the University of Gdańsk. In the years 2021-2022 LL.M. student at the Kozminski University in Warsaw (LL.M. in International Commercial Law).

From 2013 active member of the Gdańsk Bar Association. Former member of the commission of promotion and development of the profession and from 2020 a spokesman for the Gdańsk Bar Association.

Many years associated with international business, in particular with the financial industry. He has many years of experience as a lawyer, specializing in IT law, banking law, commercial companies law and labor law, as well as family law. Since 2019 he has been running his own practice. He is fluent in legal English.

Privately interested in a modern approach to law, including Legal Design and the use of technology in the practice of the profession of Attorney at Law.

3. Approval of the minutes of the Sofia meeting June 2022

See annex

4. Topic of the meeting : Young lawyers under attack

a. Introduction and context

In the frame of the general topic of the Palermo congress, “lawyers under attack” our committee will focus on the specific situation of the young lawyers.

The topic is also in line with the precedent Sofia congress, “lawyers after the covid pandemic”.

Among other topics, the congress aims to answer the question whether the Bar Associations should be dealing with issues like stress, anxiety and other concerns affecting the lawyer's work.

Understanding in that context, more specifically the young lawyer's concerns will help to draw the future of our profession.

In recent years, the FBE has worked on several issues affecting global legal practitioners, as experts in their field of practice.

Noting that in many European countries an increasing number of young lawyers leave the profession after a few years of practice, it is more and more important to work not only on professional topics but also on the issues affecting young members of the profession on a personal level.

A recent study from the Junior Lawyer's Division of the Law Society of England and Wales conducted in 2019, reveals that within the next five years, half of the young lawyers are

considering moving to a new law firm and a third to a another legal profession, a fifth leaving entirely the profession.

Among others, we would like to identify the current motivations and priorities of the young lawyers to enter the profession and to stay.

It is obvious that the young lawyers are facing new challenges by a combination of increasing globalisation and advances in technology. Also, our societies place those entering the legal profession under unprecedented pace, pressures and strains.

How important are in that context, the personal questions, like professional and private life balance, mental wellbeing, new work behavior, new roles for the young lawyer and gender diversity?

Achieving equal gender representation and remuneration, maintaining mental and physical health and treating and implementing the sustainable strategies so critical for the future of the planet reflect wider societal concerns.

The attractiveness of our law firms, which are in strong competition with a growing non regulated legal sector, to attract and retain young talents depends largely from their capacity to find the right the answers to these questions.

We would also like to question how our Bar associations are working on the question and which actions are taken.

Based on our comparative work we would like to understand if the situation is similar in our countries and what is specific and may be a source of inspiration. The results of our work could be the starting point for analyzing the changes which may be required and proposals.

What's at stake is that young lawyers continue to defend and promote in the future the fundamental and core values and specificity of our profession.

On a more pragmatic level, high turnover of young lawyers causes problems on many levels, including the disruption of productivity and damage to client relationships.

We propose to answer the following questions in order to identify the points of convergence and the differences existing between our different systems.

b. Comparative work and questions to our members

- Is there a decreasing attractiveness of the judicial professions for the younger lawyers?
- What motivates young lawyers entering the profession?
- Are career opportunities and progression as important as they were in the precent decades?
- How important are the academic backgrounds?
- Do the Bars and the law firms have a clear view on their expectations?
- What concerns do young lawyers have about their practice? (What are the concerns of the young lawyers in their practice?)

- What concerns do young lawyers have about their future?
- How important is the desire to have a professional experience abroad?
- Lack of work-life balance : is the balance of commitments a hindrance to their career progression?
- What troubles them about the legal profession after the first years practice?
- How important is the working environment and what are the changes after the COVID crises?
- How important are flexible working arrangements?
- Did your Bar association undertake a survey on these topics?
- How can we reverse the trend?
- What are the actions and measures taken by your bar association?
- What is the dynamic between young lawyers and senior colleagues?

5. Miscellaneous

6. Date of the next meeting of the commission (teams)

COMMISSION NEW TECHNOLOGIES - WROCLAW

*President : Maria Dymitruk - Vice President : Franceso Tregnaghi -
Secretary : Ludmila Glembotzky*



FEDERATION DES BARREAUX D'EUROPE

EUROPEAN BARS FEDERATION

VERBAND EUROPÄISCHER RECHTSANWALTSKAMMERN

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FEDERAZIONE DEGLI ORDINI FORENSI D'EUROPA

NEW TECHNOLOGIES COMMISSION

Report on the activity of the Commission

(for the period between 23 June 2022 to 15 November 2022)

List of Members of the Commission

(in alphabetical order)

Member	Bar Association	Function
Mario Arabistanov	Sofia (Bulgaria)	Member
Gabriela Bar	Wrocław (Poland)	Member
Maria Dymitruk	Wrocław (Poland)	President
Ludmila Glembotzky	Bilbao (Spain)	Secretary
Christian Klostermann	Sachsen (Germany)	Member
Paulina Kolowca	Warszawa (Poland)	Member
Izabela Konopacka	Wrocław (Poland)	Former President
Christoph Munz	Dresden (Germany)	Member
Grzegorz Policht	Wrocław (Poland)	Member
Agnieszka Poteralska	Wrocław (Poland)	Member
Michał Skrzywanek	Wrocław (Poland)	Member
Francesco Spina	Lucca (Italy)	Member
Sławomir Szczerba	Wrocław (Poland)	Member
Francesco Tregnaghi	Verona (Italy)	Vice-President
Małgorzata Węgrzak	Gdańsk (Poland)	Member

Report on the activity of the FBE New Technologies Commission (for the period between 23 June 2022 to 15 November 2022)

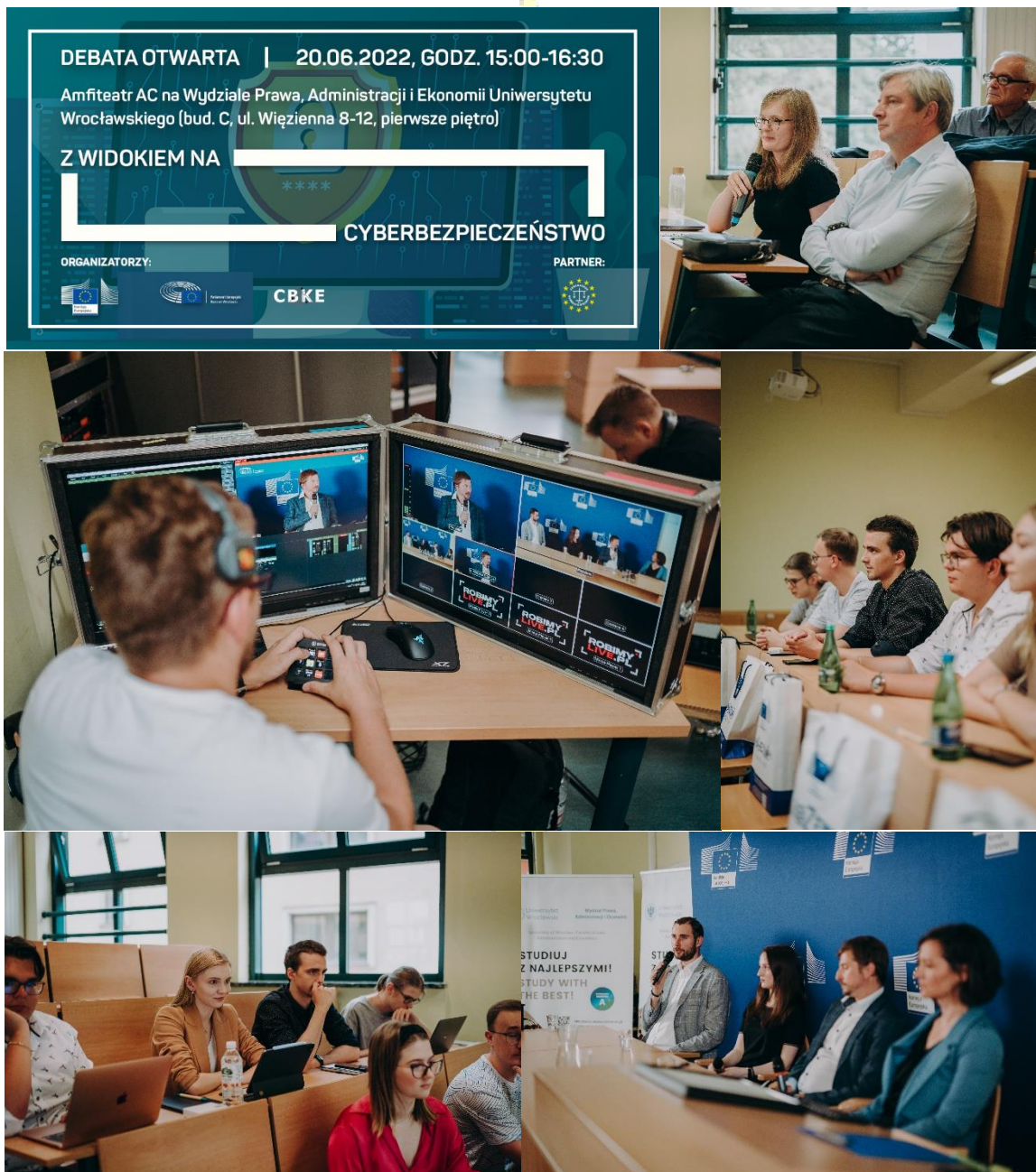
1. Hybrid meeting of the Commission in Sofia

During the Joint CCBE-FBE Congress in Sofia, on 23 June 2022 the NT Commission organized a meeting in a hybrid form, enabling all members of the Commission to participate in it. The meeting was devoted to the summary of the last activities of the Commission, i.e.:

- co-organization of two onsite events (together with the European Commission):
 - workshop on Digital Single Market [8/03/2022] - the workshop was co-organized by the Representative Office of the European Commission in Poland, the FBE and the University of Wrocław. It was focused on presenting the planned regulations on the EU digital market and its consequences for EU businesses. It discussed the assumptions and goals that the EC intends to achieve in the field of Digital Single Market and proposals of new laws such as: Digital Service Act, Digital Markets Act, Artificial Intelligence Act, as well as outline the directions of legislative works in the cybersecurity area. The full report on the workshop was published in "Przegląd Radcowski 34/2022".



- expert debate and workshop on cybersecurity [20/06/2022] - during the event, experts in the field of cybersecurity discussed the risks connected with cybersecurity and showed security measures that all of us should take as a part of our daily cyber hygiene. The main goal was to equip the participants with the knowledge and skills needed in order to maintain security while using the Internet. The goal of cyber hygiene is to keep our data secured (including data processed in law firms) and protect it from theft or attacks. The event was streaming online on the EC's YouTube channel.



- participation in CCBE/ELF AI4Lawyers project's meeting [31/03/2022] - during the event wide range of European experts in the field of artificial intelligence presented their thoughts on the digitalization of justice in Europe, challenges and opportunities of the digital transformation of law firms as well as the issue of AI-delivered justice. Particular attention was paid to the new EU proposal for Artificial Intelligence Act. The event was also focused on presentation of the Guide on the use of AI-based tools by lawyers and law firms in the EU (the initiative of the Council of Bars and Law Societies of Europe (CCBE) and the European Lawyers Foundation (ELF) as part of the AI4Lawyers project.



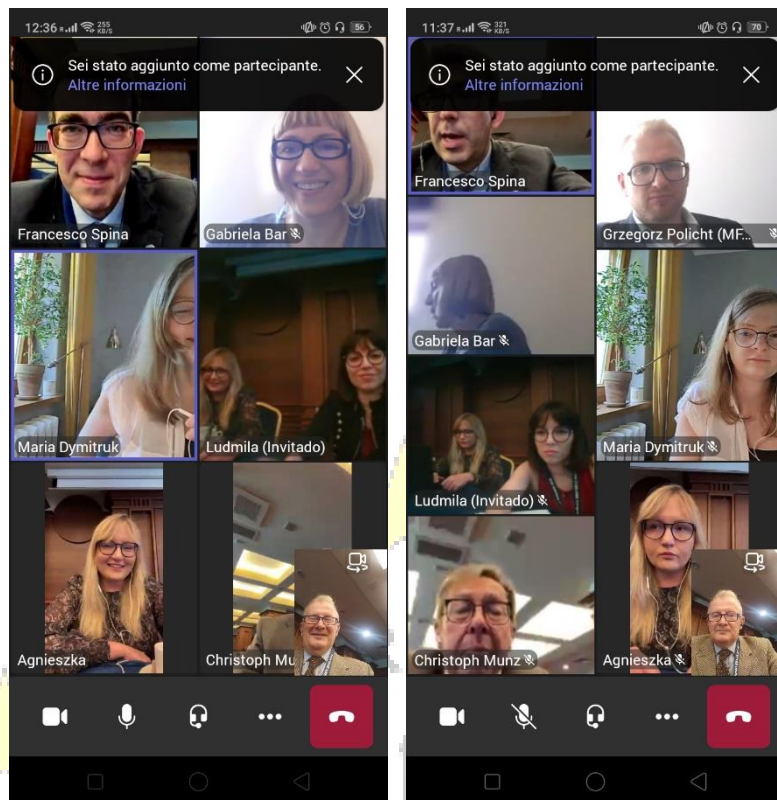
- organisation of the second edition of the International LegalTech Competition (*see point 2 below*),
- as well as future initiatives, i.e. activities planned in the CREA II and SCAN II projects (funded by the European Commission as part of JUSTICE Programme) and perhaps (if successful) DEUCE, DIKE and SPLIT projects (*see point 6 below*).

On 24 June 2022 r. the FBE General Assembly elected the board of the NT Commission for the 2022-2024 term:

- President, Maria Dymitruk (Poland),
- Vice-President, Francesco Tregnaghi (Italy),
- Secretary, Ludmila Glembotzky (Spain).

Photos from the Commission meeting:





2. Second edition of the International LegalTech Competition

At the Sofia Congress the second edition of the International LegalTech Competition “E-Access to Justice” took place. Its purpose was to promote the activities of the FBE and to encourage innovative thinking among lawyers through engaging them into implementation of modern technologies into the justice system to introduce innovative ways of functioning of the judicial and extrajudicial dispute resolution processes. Participants presented not only theoretical possibilities of the use of modern technology in justice but also practical – even technical – implementation opportunities in this field.

The participants had to be an individual or a team up to three persons. The individual or at least one person in the team had to be a lawyer representing a Bar Association associated in the FBE. There was no age limitation. The contest had two stages. During the first stage (online) participants had to submit a presentation/video. 14 participants took part in this stage of the Competition. The best three presentations got into finals:

1. Beatriz Juarrero Olaizola, «E-Justice and Blockchain in the Legal System» (Ilustre Colegio de la Abogacía de Bizkaia, Spain).
2. Daniel Woźniak, Rafał Wrzecionek, Mateusz Styburski, «StickLex – Digital platform that solves complex law problems» (Supreme Advocacy Council, Poland).
3. Yizhaq Kricheli, Maor Benzvi, Nikolay Marinov, «Making legal services transparent and accessible to all layers of society» (Barreau de Bruxelles, Belgium).



The second (hybrid) stage of the Competition took place on the 22nd of June 2022 at the Attorney's Training Centre in Sofia. The presentations were heard and assessed by the jury of international experts in the field of LegalTech: Bas Martens (FBE Presidency), Izabela Konopacka (FBE Presidency and Former President of the FBE NT Commission), Simone Cuomo (CCBE Secretary General), Martin Sacleux (CCBE IT Law Committee), and Agnieszka Poteralska (FBE NT Commission).

The winners of the International LegalTech Competition "E-Access to Justice" were: Yizhaq Kricheli, Maor Benzvi and Nikolay Marinov from Welexit representing the Barreau de Bruxelles [ordre français], Belgium, who spoke about "Making legal services transparent and accessible to all layers of society". They presented a self-created application that helps in finding a lawyer who specializes in the relevant branch of law and practices in the near vicinity. The second place was taken by Daniel Woźniak, Rafał Wrzecionek and Mateusz Styburski from StickLex, representing Supreme Advocacy Council, Poland. They presented their digital platform that supports solving complex legal problems. The application helps clients in specialized cases on the border of law and narrow specialization in other areas, by connecting the clients with specialists from multiple industries/niches in online meetings to enable them to find the most effective solution for a given problem. The third place went to Beatriz Juarrero Olaizola representing Bilbao Bar Association (Spain), who presented the topic "E-Justice and Blockchain in the Legal System". She explained what is the main role of the decentralized network and how it is possible to adapt this innovative technology in the area of law.

Photos from the second stage of the Competition:



3. Online meeting of the Commission on 22/09/2022

On 22 September 2022 an online meeting of the NT Commission was organized. Two new members joined the Commission: Małgorzata Węgrzak representing Gdańsk Bar Association of Attorneys-at-Law (Poland) and Christian Klostermann representing Sachsen Bar Association (Germany). The meeting was mostly devoted to the summary of the last edition of the International LegalTech Competition and planning of its next edition. The members decided to announce the third edition during the FBE Meeting in Palermo (17-19th October 2022). As a novelty, this edition may be organised under the patronage of the European Commission. To this end, the President will submit a formal request to the European Commission. The final of the Competition will take place in the spring of 2023 at Wrocław Bar Association of Attorneys-at-law (as an onsite event).



4. Participation in the International Conference on Artificial Intelligence and Cybersecurity “Business. Algorithm. Law”

The International Conference on Artificial Intelligence and Cybersecurity “Business. Algorithm. Law” was organised by the Gdańsk Bar Association of Attorneys-at-law, with the patronage of the FBE, and took place on 13th - 14th of October 2022 in Gdańsk (Poland). It was devoted to legal and business aspects related to artificial intelligence and cybersecurity. Among speakers from all around the globe (China, Estonia, Germany, Italy, Poland, Spain, USA, etc.) there were three members of the FBE New Technologies Commission: Małgorzata Węgrzak, Francesco

Spina and Gabriela Bar. Małgorzata Węgrzak moderated the expert panel “INTELLIGENT INNOVATIONS (BLOCKCHAIN, AI, IOT)”. Francesco Spina presented the topic “Questions on AI, digital medicine and criminal law “ in s panel devoted to AI and Cybersecurity in Digital Services. Gabriela Bar led the panel entitled “LEGALTECH”. Several members of the Commission took part in the conference as an audience. The organizers have agreed to offer them a discounted conference fee. Link to the Conference site: <https://www.bal-conference.com/>

Photos from the conference:

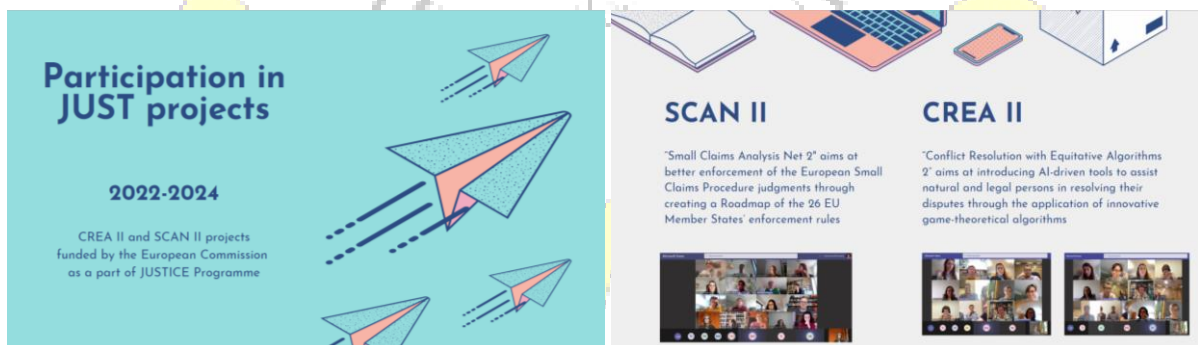


5. Contribution to the publication “Information Society in a Digital Era - Law, Economy, Culture and Technology”

Małgorzata Węgrzak invited the members of the Commission to contribute to the publication entitled “Information Society in a Digital Era - Law, Economy, Culture and Technology”. The monography aims at promoting an international cooperation on the transnational issues of information society, broad understanding of digital law in a different aspects such as Intellectual Property, Artificial Intelligence, culture, economy and technology. It is an attempt to boost a broad discussion within international community of experts and raising the level of awareness of legislators involved in the process of creating the law. The book meets a demand for information coming from various groups of the society, citizens, organizations, professional specialists. Members of the Commission were encouraged to propose chapters to the monograph (up to 15 000 words in English). The deadline for papers is 30 November 2022.

6. Participation in scientific projects

The FBE New Technologies Commission participates in two international scientific projects funded by the European Commission as a part of Justice Program (JUST): CREA II on AI, and SCAN II on a digitalization on European Small Claims Procedure. In both projects, Maria Dymitruk took part in the kick-off meetings. FBE will be responsible for organizing special events devoted to the project activities and the dissemination of the result of scientific work.



• CREA II

CREA II is a scientific project in the field of AI and access to justice. The full title of the project is “Conflict Resolution with Equitative Algorithms 2”. It aims at introducing AI-driven tools to assist natural and legal persons in resolving their disputes through the application of innovative game-theoretical algorithms. It helps users to locate information of interest and

follow them step-by-step through dispute resolution procedures. FBE is a partner responsible for the dissemination activities.

Work packages in the CREA II project:

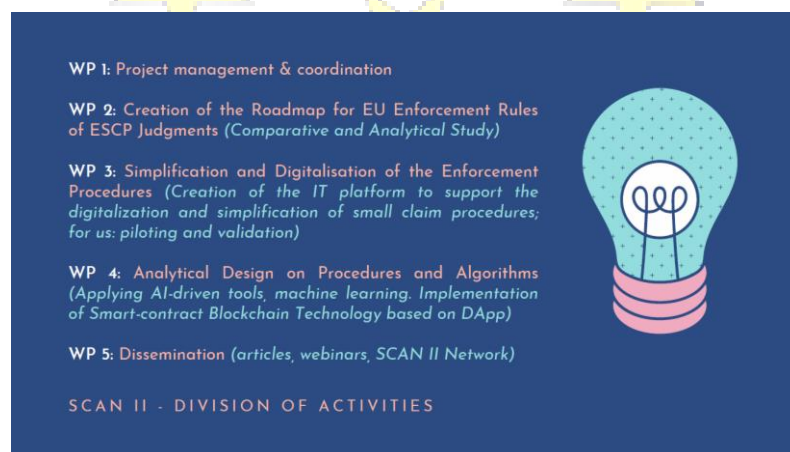


- **SCAN II**

SCAN II is a scientific project aiming at better enforcement of the European Small Claims Procedure judgments through creating a Roadmap of the 26 EU Member States' enforcement rules on the hand, and simplification and digitalization of the enforcement procedures on the other. The full title of the project is "Small Claims Analysis Net II".

In this project FBE will be responsible for the circulation of the Roadmap of the relevant enforcement procedural rules. FBE also participates in collecting national data on the enforcement rules. On behalf of the FBE, Maria Dymitruk has prepared the National Report on national enforcement rules of the ESCP judgements in Polish law. The collected data by the SCAN II Consortium is used to conduct the Comparative and Analytical Study to identify the best practices in ESCP judgments enforcement procedures on the one end and create the Roadmap for EU Enforcement Rules on ESCP Judgments on the other.

Work packages in the CREA II project:



- **DEUCE, DIKE and SPLIT projects**

It is also possible that the FBE will participate in three more scientific projects funded by the European Commission as a part of Justice Programme. The project proposals are in the process of evaluation.



- **DEUCE (Defining European Uncontested Claims Enforcement)** - DEUCE project aims at better enforcement of judicial decisions (judgments, authentic instruments, and court settlements) issued in the context of cross-border pecuniary claims in the on European Order for Payment Procedure and European Enforcement Order for uncontested claims. In case of positive results of the assessment of the draft proposal, the consortium (including FBE) will focus on refining and strengthening the existing EU laws.
- **DIKE (Digital Ius Knowledge Empowerment)** - if successful, the DIKE project will focus on utilizing digitalization of courts' decisions in order to pursue predictive justice, in civil and commercial disputes, both in the European as well as in national contexts. The aim will be to develop a method that will attain harmonization through artificial intelligence (namely predictive algorithms). Through DIKE predictive algorithms access to justice will improve with many other positive effects, such as relieving the burden of the judiciary system.
- **SPLIT (Strengthening Practice and Learning through Interactive Training)** - if successful, the SPLIT project will cover three areas: the application of the Charter of Fundamental Rights in the digital era; the judicial cooperation in civil matters and the EU substantive procedural criminal law. FBE will be expected to disseminate the project activities and outputs through its own channels.

Maria Dymitruk

President of the New Technologies Commission

EQUALITY COMMISSION - PARIS

President : Solenne Brugere - Vice President : Carles MCCRAGH - Secretary : Alice de Larminat

No report

COMMISSION NON ACCOMPANIED MINORS – AMSTERDAM & ANTWERP

President : Céline Squaratti - Vice President : TBD - Secretary : TBD

No report