

ANNEX 44

- Country Report PORTUGAL

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COMMISSION EUROPEENNE

**- DG FOR JUSTICE, FREEDOM
AND SECURITY -**

**Study on the Transparency of Costs of Civil Judicial
Proceedings in the European Union**

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- COUNTRY REPORT -

- PORTUGAL -

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COUNTRY REPORT

Preliminary notes

This report is the result of an analysis of court costs in Portugal as legislated as well as personal interviews with many professionals in all aspects of legal administration.

Introduction

This study has been prepared simultaneously with the imminent approval in Portugal of a new regulation of judicial costs, the *Regulation of Procedural Costs*, discussed in more detail below and herein referred to as the “*Regulation*”.

The proposed *Regulation* seeks to simplify the system of judicial costs by the introduction of a limited number of new concepts, including:

- The parties shall pay a single justice tax instead of the former justice tax which was paid in two parts, denominated initial justice tax and subsequent justice tax
- The penalization of “mass litigants”, normally associated with companies whose principal activity is collection cases, by increasing the normal justice tax
- The value of a case, upon which the justice tax is calculated, is now predicated upon a progressive table but still leaving to the presiding judge the opportunity to increase the justice tax in cases of complexity, although within a specified range
- A separate justice tax for a variety of special processes without reference to the underlying value in particular restraining orders and attachments

Successive Portuguese governments have taken serious steps towards making the system of justice accessible to its citizens and extending legal aid, when the recipient does not have economic means, to its citizens, residents of the European Union, and even non-residents, provided, in the latter case, there exists grounds of reciprocity to Portuguese citizens.

Moreover, Article 20 of the Portuguese Constitution that assures, to all:

“...access to the law and to the courts...justice not being able to be denied for insufficiency of economic means.”

In continuation of this movement of legislative reforms, the XVII Portuguese Constitutional Government in its resolution n° 122/2006 published the necessary orientations for further elaboration by the Portuguese parliament. Amongst the many measures set forth, the last, n. ° 14, determines:

“To approve [by the Council of Ministers] within 90 days [in theory by 7 December 2006] a proposal of a law...” which proceeds to the simplification and modernization of the juridical regime of judicial costs. Therefore, on 31 March 2007, there was published in the Official Journal of the Portuguese Government the proposal of a law authorizing the Government to regulate judicial costs. The contents of this proposal- *Proposal of Law 125X*-shall be discussed in section 10 under “national action”.

On 17 May 2007 the applicable parliamentary commission sent the proposed *Regulation* to the National Assembly, where it was voted upon favourably. Now it will then be sent to the President of the Republic for his approval, and thereafter returned to the Government which must approve the *Regulation* within 180 days. Once passed, the new *Regulation* foresees a revocation of the present Code of Judicial Costs and amendment to multiples Codes so as to incorporate the new regulations.

Thus, the present system of Portuguese judicial costs must be seen as in its moribund phase. It is anticipated that the new law on judicial costs shall go into effect in January 2008.

As of the date of the writing of this report it is confirmed that the new Regulation shall go into force on 23 January 2008, having been approved through the entire legislative and Presidential process and published in Portugal in the *Diário de República I, Séries A*, No. 140, on 23 July 2007.

Executive Summary

1 Summary of the mains sources of costs

The present principal sources, but by no means complete, as there are approximately 200 normative rules, are:

Code of Judicial Costs (“Codigo das Custas Judiciais”, set forth in Decree Law 224-A/96 of 26 of November, amended and complemented by various legislative and ministerial acts) and

Decree Law 387D/87 of 29 December 1987 establishing costs of justice annually

The Code is soon to be revoked and replaced by the *Regulation* which shall become effective 23 January 2008. Consequently,

2 Level of transparency in the sources of costs

A profound knowledge of the law of costs is required for comprehension of the multiple rules and their exceptions. Even superficial knowledge of court costs requires detailed acquaintance with the regulations. The *Regulation* has not made judicial costs more transparent to the public although it has removed many doubts court officials had as to calculating the justice tax, assessing intermediate procedures and issuance of documents, and assessing final court charges.

3 Determination of the amounts of costs

Pursuant to the *Regulation*, there is the general rule that court costs shall be calculated upon the amount declared in the petition. The *Regulation* has taken substantial strides towards eliminating much uncertainty concerning the determination of value and there are now tables, annexed to the *Regulation*, establishing value for many special processes that previously, were impossible to determine.

Nevertheless, there are severe omissions in the *Regulation* as there are actions where the amount is difficult to calculate. Divorces, child custody, inheritance and succession are frequently the object of court processes and yet value is extremely difficult to calculate.

While the *Regulation* admits there shall be cases whose value is indeterminate, the solution proposed by the *Regulation* is to refer to a table with amounts indicated according to a scale. This, obviously, does not resolve the problem (the value of the cause is not determined yet the parties are referred to a table of numbers) so that court clerks shall be confronted with recourse to other methods, not stipulated in the *Regulation* to determine value. As in the present law, the presiding judge will be obligated to assume an underlying value to which can be assigned the justice tax.

Moreover, the general rule falls into disrepute with the discretion of the presiding judge to vary the justice tax dependent on the complexity of the litigation or issues at hand in accordance with an annex to the *Regulation*. The table does contain merit in that, dependent on the amounts in controversy, the extra justice tax to be levied is within a limited range for increase of the justice tax.

Furthermore, in addition to the justice tax there are tribunal charges, i.e. further costs incurred, resulting from ancillary court procedures or documents relative to the process.

Appeals, ancillary procedures, restraining orders, injunctions, and similar processes, are treated as independent actions and are subject to a tabled justice tax in the same way as the main action. To discourage appeals and to encourage settlements, if the appeal is not concretized, the appeal justice tax paid is credited to the account of court charges should the appeal not materialize.

At the end of the case, when appeals are no longer possible, the winning party presents his “note of costs” to the court and the winning party is allowed to claim modest reimbursement for legal expenses in accordance with a formula.

In all instances, the use of electronic means reduces considerably the normal justice tax(es).

In an average law suit, present day court costs would normally be between Euros 600.00-700.00 particularly if there are appeals which increase the court costs considerably. This must be contrasted with average monthly salaries in Portugal which are approximately Euros 750-1,200.00. Court costs have risen since 2000, a date for which statistics are available, probably due to the increase in value of claims, i.e. a result of inflation.

4 Level of transparency in determining the actual costs

The determination of the amount of costs in civil procedures in Portugal is unnecessarily complex and not easily ascertainable. Costs are dependent on events as the civil action proceeds, and often costs arise because of collateral issues or the intervention of third

parties. The final decision of value additionally related to the complexity or simplicity of the issues is not predictable and certainly not within the normal foresight of the average citizen. Clearly the possibility of an appeal(s) always exists which creates additional costs and again the average citizen or his counsel cannot know beforehand whether such an event will occur.

Transparency, therefore, does not exist, if by transparency is meant clarity and a degree of foresight.

5 Proportion of each identified cost on the overall cost of civil judicial proceedings

There are no generalizations to be made. As the justice tax is based on a table, the tribunal charges range from specific items that form part of the average lawsuit to the judge's final discretionary judgment as to the complexity of the process.

Court charges are assessed for any procedure or document required during the civil action, which may not be known beforehand. Moreover, the possibility of appeals renders costs not ascertainable until the end of the action.

6 Proportion of each identified cost on the overall volume of activity

There are no generalizations that can be made. Each civil law suit is *sui generis* as far as judicial costs are concerned.

7 Proportion of each identified cost on the value of disputed claim

No generalizations can be asserted. In a complex lawsuit of modest value, the need of letters rogatory or editals or similar publications may result in substantial costs. On the other hand, a lawsuit concerning a breach of contract for a substantial sum might have few intermediate incidents and be relatively simple, thus reducing the overall costs.

8 Specificities in relation to EU cross-border disputes

There are no costs related to EU cross-border disputes *per se*. While it is natural a cross-border dispute will create higher costs than a purely national action, the cross-border litigation is not subject to a special justice tax.

9 Proportion of each identified cost on the overall cost of civil judicial proceedings

No statistics are available.

10 Recommendations for EU action/national action

(A) EU action

A new approach to judicial costs is required to make justice accessible to the average citizen. Traditionally, the law has always been slow to change, unless a new concept demands innovative legislation, such as software or biomedicine patents.

In Portugal, the regime of judicial costs is firmly rooted in the adversarial system and in the concepts of dividing court costs into a justice tax and court charges, with the winning party also receiving as “party costs” monies advanced during the process. This system is the result of centuries of jurisprudence and legislation and not easily cast aside. Instead, as we shall see, we have, in Portugal, the grafting of some modernization attempts upon historical ideas that are not communicable to the population.

Some transformation and simplification, is now forthcoming with the publication of the *Regulation*. However, the main problems persist. The proposed *Regulation* continues with the dual system, albeit introducing concrete references to listed court charges. But the complexity persists. Few citizens and counsel will readily appreciate the application of the new *Regulation*.

If it is assumed uncertainty in judicial costs impedes access to justice, so will citizens hesitate to present their rights in court.

Regulation directed towards simplifying and harmonizing the regime of judicial costs throughout the European Union will be a positive step in enhancing the rights of citizens in all the member states. Harmonization of costs will mean that citizens of all member states understand their judicial costs in another member state. Counsel-the primary professional class which advises the public-will be able to explain to their clients what are the probable costs.

As to the underlying premises, which in theory range from court costs being supported by the litigants as to the value of a case, to a single, unitary charge independent of the nature of the action, to detailed tables where each action by its legal characterization bears a specified fixed cost, to tables which are subject to final revision dependent on complexity, to public finances supporting the cost of judicial services, such considerations are to be debated and presented by the competent representatives of each member state.

(B) National Action

There is presently new legislation -*Proposal of Law 125X*- of the 2^a Legislative Session (2006-2007) and denominated *Regulation of Judicial Costs*, approved in the National Assembly and awaiting Presidential approval, after which it shall be subject to publication by the Government and implementation.

11 Relationship between the costs of justice, the transparency in the costs of justice and access to justice

In Portugal, there is a concerted effort by the Government to make justice accessible to the public. From this premise the present publication of the *Regulation* is expected shortly.

Nevertheless, in spite of such good intentions, the premises of costs of justice remain little understood, even by the professional class because the transparency of costs is sufficiently complex.

While it is a common belief companies tend to estimate costs more carefully when considering litigation whereas the average citizen is more prone to initiate litigation without careful meditation, such affirmations are not a statistical conclusion and may not be true.

However, what may be asserted is to the extent the average citizen or company wishes to make costs part of a rational decision to seek recourse to the system of justice, the determination of such costs are beyond the knowledge of the general population.

Detailed Draft Report

1 General Questions

1.1 Level of information on the transparency of fees and costs of justice

The existing Portuguese law, but soon to be revoked, is the Code of Judicial Costs, or “Code” (“Código das Custas Judiciais”) whose original text is to be found in Decree Law N.º 224-A/96 of 26 of November and which has suffered various legislative alterations through the years. Two theoretical concerns underline the Code and have historical roots and which are also reflected in the *Regulation*. The *Regulation* goes into effect on 23 January 2008.

There is a justice tax for the services of the judiciary system and there are process costs. Thus, the social view that justice is guaranteed to the citizens, gratuitously, as part of the social contract with the Government, has not been adopted. This norm has received the constitutional validity from recognized Portuguese constitutional authorities to the effect:

“The Constitution does not consecrate, in article 20º, a gratuitous, or bias towards gratuity, the right of access to law and to the tribunals, being constitutionally admissible

the establishment of the demand of a payment for the services of the administration of justice”, citing the plenary Portuguese Supreme Court in “Acórdão n.º 422/00”.

In Portugal there exists a system of judicial support for those who cannot afford an attorney or the charges of the judicial system and which in Portugal has to be approved by the social security system.

As for the costs to be borne by the litigants, the present Portuguese statutory structure in general penalizes the losing party. The cause before the court is seen as adversarial and there is a winner and a loser, with the loser being obligated to reimburse the winner for his payment of the justice tax and court costs. As can be imagined, who is the winner and who is the loser is itself a troublesome question, often without a clear answer.

There will always be situations in which there is neither a winner nor loser, e.g., division of property commonly held, divorce by mutual consent, judicial inventory attendant upon the death of a party.

As to all such cases where no value is immediate, the *Regulation* remits the parties to a table but even this table, predicated on numeric values, appears incongruous (where no value is evident the parties are remitted to a table with numeric values!) and ultimately the table values are dependent on the economic value given to the cause by the presiding justice.

1.2 Transparency perception

There is difficulty for counsel in ascertaining costs beforehand. The average attorney looks to the tribunal and its functionaries for assessments and explanations. It is primarily the court clerks, with their daily computations in the multitude of processes, the familiarity with the details of each process and work experience, who make the countless determinations and who offer the explanations, when requested.

Thus, there is no level of transparency in the sources of costs other than for those with a profound knowledge of the law of costs which requires a great deal of scholarship.

While, therefore, there is certainly no attempt to conceal court costs, in fact successive Governments have enacted legislation striving to modernize the Portuguese judicial system, the transparency of court costs remains an elusive reality. This unfortunate conclusion can be sustained by a linear examination of how court costs in civil cases are presented in the *Regulation*, without examining other classes, such as criminal, administrative, or tributary causes.

Civil court costs are divided into three main categories:

(A) an annex to the *Regulation* for the fee for the services of justice, that is, the services of the judiciary and its staff.

(B) process charges which includes various generic items such as transcriptions, court solicited documents (e.g. plans, expert opinions), transport expenses, citation services, translation fees, extra-tribunal visits, to name a few. Within this general category of “charges” the *Regulation* makes a further important distinction between those charges which can be thought of as expenses with the conduct of the law suit and those which can be classified as “party costs”, a distinction inherited from the prior law and which refers to reimbursement of counsel fees, although the amounts are usually rather modest.

Within the category of process charges is to be found the important class of executive actions, rights evidenced by a document such as a court sentence, and where the only remedy sought is not a clarification of rights but the enforcement of a court pronouncement, e.g. a sentence condemning a party to pay a certain debt.

Consistent with recent governmental options to modernize and decongest the tribunals, there has been created figure of a “solicitor of execution” in Portugal. This latter figure is entrusted with the implementation of citations, publications, restraining orders, and attachments under specified circumstances and specifically to implement executive actions, hence the name “solicitor of execution”.

Given that many processes involve executive actions, which actions may be ancillary to the basic cause, the *Regulation* provides in one of its annexes the costs to be incurred for the services of a solicitor of execution.

(C) party costs are those costs associated with the litigation process and are a subdivision of the general category of “charges”. Normally party costs are those sums advanced during the trial by a litigant in contrast to administrative charges levied by the tribunal for various diligences, e.g. letters rogatory and of course one of the significant items of party costs are the fees and expenses associated with “legal services”.

Whereas under the prior law, there was an amount awarded as “legal assistance”, meaning not legal aid but expenses in obtaining legal counsel, the *Regulation* now permits, under the category of party costs to be awarded to the winning party:

- a) the justice tax paid by the winning party
- b) the process charges paid by the winning party
- c) 50% of the amount paid by the losing party for the justice tax for compensation towards legal services of the winning party

In conclusion, the combination of all the above categories, including the possible recourse to services of a solicitor of execution renders the forecast of judicial costs in any action a difficult calculation.

1.3 Solutions to improve transparency

With the publication of the *Proposal of Law no. 125X* of the 2^a Legislative Session (2006-2007) of Portugal on 31 March 2007, and in via of being approved by the President of the Republic, the “exposition of motives” contained in the proposal offers guidance as to the main objectives to be accomplished.

Unfortunately, while some improvements are clearly observable, the over-all statutory scheme presently approved by the National Assembly fails to advise to the average citizen or counsel any clear meaning, other than those specialized in the material of court costs.

On the positive side, a significant objective sought is the elimination of the justice tax previously paid in two phases. The justice tax shall be paid once. Moreover, the single

justice tax bears reference to a table with a reduced margin for increase of the justice tax where the trial process is complex.

Moreover, in the opinion of the legislator, and no doubt based on statistics furnished by the tribunals, half of the judicial processes are initiated by professional groups seeking to enforce payments of defaulted notes, drafts, debts of “small value”. It is therefore intended to fix a special justice tax for societies enforcing such claims where the volume of any entity is equal to or superior to 200 court processes including executive processes.

As to the possible constitutionality of a measure that targets a specific group, the legislator responds in the preamble to the *Regulation* that such measure “corresponds to a very intense use of the judicial system” that causes congestion in the court and puts the judicial system at the service of a highly specialized minority of court litigants. In other words, who uses the court more, should pay an increased justice tax.

Negatively, the proposed regulation introduces a number of norms will undoubtedly lead to more confusion on the part of a litigant and create consternation within the professional class. Specifically, with the apparent legislative intent to make less onerous litigation for any party, the proposed regulation decrees that the losing party, obligated to pay the other party court costs, may petition the presiding judge to pay such costs in phases.

Practical experience must here override academic theory. While phased payments may indeed alleviate a losing party, such possibility merely induces many litigants to plead for delayed payments, with a modest intention of ever paying them. It is true the proposed regulation introduces a new mechanism. Should the intended phased payments not be integrally completed, recourse can be had to the Public Ministry, a judicial executive branch of the government, to seek the collection of the amounts in question.

The problems of collection are therefore transferred to another entity that, in short time, will be surely inundated with processes of execution.

(a) Exemptions

In the opinion of the legislator, the present Code contains too many exemptions. Hence, the *Regulation* still contains numerous exceptions to the application of the justice tax but mostly of a technical nature as for example labour issues where the Public Attorney's office or a syndicate is the representative. The majority of court cases shall continue now be subject to court costs.

(b) Incidental costs of documents

The present law as contained in the Code of Judicial Costs requires the payment for all incidental costs during the course of a trial, such as the need for a document. The proposed *Regulation of Procedural Costs* sets forth a method for calculating such costs based on UC(s), a unitary cost defined by ministerial order and which is presently Euros 96, subject to actualization each year.

(c) process costs

Under the *Regulation* all documents or acts solicited to or by the tribunal require advance payment once 2UCs are exceeded, i.e. Euros 192.

1.4 Fairness of costs

Whether we are dealing with a justice tax or tribunal charges, there is the general rule where the amount declared is the value upon which court costs shall be calculated unless other legal criteria apply.

By virtue of the logic of the *Regulation*, the justice fees can absorb almost the totality of the costs of a disputed claim with a significant value, but simple in presentation to the court with few ancillary procedures or need for documents; and, on the other hand, a law suit with modest value, and therefore low justice fees, may be complex, lengthy in its tribunal course, and with many appeals. In this latter situation, court charges will loom significantly.

Nevertheless, there are statistics which have been published by the Portuguese National Statistics bureau (INE) referring to judicial costs from the years 1992-2000.

Custas pagas nos tribunais judiciais (1992-2000)

Custas pagas	Anos								
	1992	1993	1994	1995	1996	1997	1998	1999	2000
1	2	3	4	5	6	7	8	9	10
Total Geral (em euros)	#####	#####	#####	#####	#####	#####	#####	#####	#####
Em 1ª instância	#####	#####	#####	#####	#####	#####	#####	#####	#####
Em recurso	4 077 363	4 829 790	6 557 636	7 360 296	6 697 952	1 290 679	453 662	592 522	473 609
Valor médio das custas por processo judicial (em €)	100	110	86	163	171	162	180	168	224

What this table shows is that the average cost per judicial process in Euros, including appeals, has risen from 100 Euros in 1992 to 224 Euros in the year 2000. These numbers demonstrate a contradiction in the perception of the Portuguese citizen. While on the one hand, there is a general lack of transparency concerning court costs in fact the costs were not significant in the years 1992 to the year 2000.. Thus, were the Portuguese citizen aware of the INE statistics, costs, *per se*, this would probably not avoid recourse to court. Nevertheless, the statistics of INE, although published, are hardly given any publicity, and its contents are possibly only accessed by the law profession.

A claim today in Portugal for Euros 50,000 would incur court costs of approximately Euros 600.00 without appeals and any procedural complications.

Consequently, the public perception of fairness does not coincide with the professional's knowledge of court costs. To the general public, court action incurs court costs whose amount is an unknown and thus a deterrent to seeking court relief.

2 Court fees

In Portugal courts costs and official fees are not, in general, related to the nature of the case, neither the volume of activity, but as to the value of the disputed claim. There are exceptions when certain classes are involved such as the Government or entities recognized to have social utility, eg mercy houses or charitable institutions. Consequently, irrespective of the nature or volume, the impact of litigation in Portugal in terms of percentages may be summarized as follows:

Court fees	2.5%
Bailiff fees	1%
Lawyer fees	15%
Expert fees	1%
Witness compensation	1%
Translation/Interpretation	1-5%

2.1 General

Any discussion of court costs must be examined in light of the *Regulation* that is due to become the law on 23 January 2008. Thus, the ensuing analysis contains in places a comparison with the present, soon to be revoked, law. The relevancy of such a comparison is to demonstrate how substantially or how modestly the *Regulation* has altered the present law. Although some clarity has been achieved on the prior law, the general topic of judicial costs continues obscure.

Court costs in Portugal continue to be a combination of fixed costs set by a table and varied, according to the complexity, such a determination left to the presiding judge, albeit within limitations.

The court costs are not dependent on the law courts.

While court costs have some statutory regulation as to maximum amounts, there are court costs for ancillary proceedings and there is no way to know beforehand, before any procedures, what, if any, intermediate judicial steps will be requested.

2.2 Cost of bringing an action to the courts

Article 1 of the present Code establishes the costs of bringing an action shall include the justice tax, court charges, and party costs, the latter intending to award counsel costs to the winning party. The *Regulation* requires only a single justice tax payment instead of an initial and then final justice tax as in the present Code.

If less vague in its application than the Code, the theoretical basis of the *Regulation* continues to be adversarial, the winner receiving back a substantial part of costs. Chapter 1, Section 1 of the *Regulation* repeats the premises of the present Code in calculating the justice tax on a table, with the added criteria of complexity representing a possible increase in the justice tax.

Both the Code and the *Regulation* utilize the concept of value for purposes of calculating the justice tax and this calculation is based on a unit of cost (UC) which varies according to a table and is actualized yearly. Presently it is Euros 96.

In actual fact, the *Regulation* does not represent any major improvement over the present Code insofar as the justice tax is concerned. What is achieved is a payment once, instead of in two phases. This appears to benefit the court more than the citizen.

On the other hand the Code does set forth many exemptions to the justice tax where there is clearly no winner or loser, as for example in an adoption process (where perhaps all are winners). However, the many categories of exemptions in the Code are now to be reduced. Indeed in the preamble to the *Regulation* the legislator clearly states there is foreseen a “...*drastic reduction of exemptions...*”.

Other than stipulating the justice tax shall be applied only once, the *Regulation* reduces exemptions, both subjectively and objectively, and expressly dictates an increase in the justice tax when the issues are complex, which, one would expect, is the usual situation.

Court cost are not dependent on the jurisdiction of the court, i.e., its territorial competency and court costs must be advanced when incurred.

2.3 Other proceedings costs

In article 18, the *Regulation* incorporates a table of charges established for experts, translators, interpreters, and consultants.

Still, many charges continue to be indefinite and not controlled. Unforeseen incidents during the court process, procedures which become necessary, the requirement of testimony to be taken abroad, typical example, shall continue to be “charges” to be paid for and only later reimbursed by the losing party. Court diligences such as relevant transport to examine the local in a land dispute shall also require to be reimbursed.

2.4 Costs of legal recourses (Appeals)

In both the Code and the *Regulation*, an appeal requires an additional payment of another justice tax.

2.5 Costs of ADR

Portuguese law does not regulate ADR disputes. There are many private ADR centres that have their own tables of fees and expenses. These observations do not apply to arbitration procedures under the jurisdiction of a court but the tables to the *Regulation* do not contain any specific item for arbitration. For commercial issues, there are private arbitration centers and this report makes reference to average costs in the tables hereinafter reproduced.

Admirably, the Portuguese Government has inaugurated a new mediation program whereby it has established in many of the Portuguese cities a mediation center where family issues such as divorce, separation, alimony, and custody can be submitted for mediation and for which there is no cost.

The recommendations of the mediator are not compulsory and unless the parties voluntarily come to an agreement, there is no resolution other than by recourse subsequently to a court of law.

2.6 Payment

The Code requires the assessment of a justice tax in three phases: initial payment prior to trial, subsequent prior to trial, and a final payment, which permits the incorporation of a tax for complexity. This scheme has suffered an alteration.

Pursuant to articles 14 and 15 of *Regulation*, the justice tax shall be paid upon delivery of a complaint or answer. Court charges are paid by the party requesting them, or, if initiated by the court, by both parties.

Nevertheless, the *Regulation* also foresees a final assessment of a justice tax at the end of the case dependent on the complexity of the issues.

2.7 E-justice

The Code foresees a reduction in the justice tax with the use of electronic means and Article 6 of the *Regulation* provides for a substantial reduction in the justice tax when electronic means are employed. It is common practice for attorneys and solicitors in Portugal to have recourse to electronic means for delivering documents to the tribunal.

2.8 Impact of the number of hearings on costs

Under both the Code and the *Regulation*, the number of hearings increases costs to the extent the hearings increase the perceived complexity of the material as well as any incidental costs, such as the need to have testimony recorded.

2.9 Transcription costs

Transcription costs are charged to the party requesting them. Payment is required at the time of request and the cost is Euros 1.92 per page.

3 Lawyers' consulting and representation fees

3.1 General

Lawyers' fees continue not to be regulated and subject to agreement between the professional and the client. Representation by an attorney is necessary above the court of first instance, which means above a claim for approximately Euros 15,000.

3.2 Fees depending on the nature of the litigation

Lawyer fees are combined between the attorney and the client with no regulation other than the Bar Association standard of fairness, complexity, and time expended.

3.3 Fees depending on the type of lawsuit or proceedings

Lawyer fees are combined between the attorney and the client with no regulation other than the Bar Association standard of fairness, complexity, and time expended.

3.4 Fees depending on the value of the claim

The Portuguese Bar Association permits counsel fees to be related to the value of the cause and the complexity of the issues, with the *caveat emptor* that contingent fees are prohibited under Portuguese law.

3.5 Fees depending on the jurisdiction

Lawyer fees are combined between the attorney and the client with no regulation other than the Bar Association standard of fairness, complexity, and time expended. The jurisdiction of the court, by which it is presumed to mean the nature of the court, has no logical bearing on lawyer fees

3.6 Payment

Lawyer fees are combined between the attorney and the client with no regulation other than the Bar Association standard of fairness, complexity, and time expended. Payment is therefore a subject of agreement.

3.6.1 Retainer

Lawyer fees are combined between the attorney and the client with no regulation other than the Bar Association standard of fairness, complexity, and time expended. Many lawyers have retainers, monthly or otherwise. Others do not.

4. Bailiff fees

In Portugal, the word “bailiff” must be understood to refer to a court official or someone acting on behalf of the court, such as a solicitor designated by the court to complete an execution. Unlike the Code, the *Regulation* incorporates a table for payment of services of specific court-requested service, e.g. service of a restraining order undertaken by a solicitor of execution.

Thus two aspects must be distinguished:

(1) where a party litigant requests ancillary relief, requiring a court official to issue a document, which services are charged according to a table and

(2) the services of a solicitor of execution which are fixed by a Government regulation and are dependent on the service performed, such as service of a summons, or completion of an execution.

4.1 General

During a court procedure, it is frequent to have recourse to incidental acts, such as serving of a document, a notice, a request. In some cases, the court may issue or send by registered mail the notice. In other cases, as for example, with procedures for a preliminary injunction, recourse will be had to a third party figure known as a solicitor of execution.

4.2 Ante judgment

During a court procedure, it is frequent to have recourse to incidental acts, such as serving of a document, a notice, a request. In some cases, the court may issue or send by registered mail the notice. In other cases, as for example, with procedures for a preliminary injunction, recourse will be had to a third party figure known as a solicitor of execution.

This may occur prior to judgment.

4.3 During proceedings

During a court procedure, it is frequent to have recourse to incidental acts, such as serving of a document, a notice, a request. In some cases, the court may issue or send by registered mail the notice. In other cases, as for example, with procedures for a preliminary injunction, recourse will be had to a third party figure known as a solicitor of execution.

This frequently occurs during the court procedure.

4.4 Post proceedings

During a court procedure, it is frequent to have recourse to incidental acts, such as serving of a document, a notice, a request. In some cases, the court may issue or send by registered mail the notice. In other cases, as for example, with procedures for a preliminary injunction, recourse will be had to a third party figure known as a solicitor of execution.

This normally occurs upon execution of a judgment.

4.5 Payment

Payment is normally forthcoming when a court service is requested unless the charge is less than 2 UCs.

4.5.1 Retainer

There are no retainers for court officials under Portuguese law.

5 Expert

5.1 General

The *Regulation* establishes a tabled fee for services of an expert.

5.2 Fees

Article 18 of the proposed *Regulation* sets forth the remuneration to be paid to experts and is indicated in the various table incorporated into this report.

5.3 Payment

Under Article 21 of the proposed *Regulation*, a fee exceeding two UC, i.e. Euros 192 must be paid in advance.

5.3.1 Retainer

Retainers for experts would be rare.

5.4 Legal aid cases

Legal aid in Portugal is an adjunct of the welfare system. All requests for legal aid, as well as gratuitous legal consultations are processed by the social security system. However, Portugal has a broad definition of the *persona* requirements and they are broad and liberal for residents of the European Union.

According to Article 7 of Law n.º 34/2004 of 29 of July, the following have the right to legal aid in Portugal:

1. citizens of member states of the European Union
2. foreigners or ex-patriots who have a valid residence permit in a member state of the European Union
3. foreigners without valid residence permits provided the other state would grant legal aid to a Portuguese citizen in the same conditions

In order to qualify for legal aid or gratuitous legal counsel, it is necessary that the recipient does not have sufficient economic means. The concept of insufficient economic means has undergone a recent change. With the publication on 28 August 2007, a family will be considered to have insufficient economic means if the aggregate family income does not exceed Euros 6,350. A family not reaching this platform will be exempt from court costs and entitled to reimbursement of counsel fees.

When economic insufficiency is claimed, such fact is examined by the services of the Portuguese social security, including bank accounts, delivery of documents including tax declarations, copies of registration of any real property, as well as any lease contracts.

Legal aid is therefore dependent on “economic insufficiency”. The elements of economic insufficiency are net income less necessary family charges and expenses with habitation. The applicable law-Ministerial Order nº 1085-A/2004 of 31 of August sets forth a complex formula to arrive at the final figure, whose formula is sufficiently complex that local social security agencies refer all applications to a department at the main office for purposes of calculation.

While the inability to utilize the formula on a regional level does not mean it is not fair or just, it does indicate the complexity of the application of the law.

In conclusion, legal aid in Portugal requires a very low subsistence level, whose veracity is subject to extensive examination.

An additional troublesome issue under the present legal aid regime is that the social security services have 30 days to respond to a request for legal aid. While a litigant will be suspended from paying any court costs by producing a copy of the request, the final decision may be unfavourable, in which event court costs will be forthcoming from the party. Thus, being a potential plaintiff, a party can wait until a decision from the social services. Being cited as a defendant, the party seeking legal aid may discover after the commencement of the law suit that court costs are and will be owed.

5.5 Reimbursement of experts’ fees

The losing party must reimburse the winning party.

5.6 Practical questions

The necessity of experts imposes on a party substantial cost. In a medical malpractice law suit, the probable requirement of extensive medical testimony caused American

lawyers to develop the theory of contingent fees (legal fees dependent on results in the form of a percentage) as it was rapidly discovered clients may not engage in litigation when faced with large, future costs.

Contingent fees in Portugal are not permitted. This certainly avoids exaggerated claims and baseless lawsuits merely designed to force defendants into a settlement. Yet the problem is realistic: how can clients go forward when there is a need for expensive expert testimony?

Perhaps the answers resides in a special court fund for a designated class of experts whose testimony is needed; in other words, an expert fund administered by the court and supported by public finances.

6. Translation and interpretation

6.1 General

Both translation fees and interpreter fees are fixed in the proposed *Regulation*.

6.2 Translation fees

The proposed *Regulation* establishes a fixed fee.

6.3 Interpretation fees

The proposed *Regulation* establishes a fixed fee.

6.3.1 Retainer

A retainer would be unusual.

6.4 Payment

Any payment exceeding two UC, ie Euros 192 is required to be paid in advance under the proposed *Regulation*.

6.5 Practical questions

In various situations the *Regulation* permits conversion of the justice tax into a fund for payment of these and other charges, such as cases involving family law where there may exist a party exemption and the court advances the sum in question.

6.6 Legal aid

The Portuguese system of legal aid foresees payment of court costs.

6.7 Reimbursement

The losing party must reimburse the winning party.

7 Witness Compensation

7.1 General

Contrary to the provisions of the Code, in the *Regulation* by virtue of article 18, witness fees are now fixed according to an annexed table to the *Regulation*.

7.2 Fees

Contrary to the provisions of the Code, in the *Regulation* by virtue of article 18, witness fees are now fixed according to an annexed table which forms part of the *Regulation*.

7.3 Payment

Article 18 of the proposed *Regulation* requires payment to be paid prior to testimony when the amount exceeds two UCs.

7.4 Practical questions

Although article 18 of the proposed *Regulation*, table IV, establishes a fee, in fact it is only for transportation, and the amount stipulated is 1/12 of one UC or 8 Euros. This surely cannot represent a meaningful witness fee. Consequently, the *Regulation* as does the Code, does not fix a witness fee and it is within the criteria of the party calling the witness to offer, or not, a fee.

Veteran court counsel will confirm that the question of witness fees is often a reason for discrediting a witness and a more realistic witness fee is a positive contribution towards the judicial process.

8 Pledges and security deposits

Under Portuguese law, “pledge” or “security deposit” means “arresto” (a procedure designed to prevent any action being taken) which under anglo-saxon law corresponds to a “restraining order”, a court order impeding any action over, or in connection with an object, such as a restraining order freezing a bank account, or prohibiting the transfer of any realty.

8.1 General

The use of restraining orders is a fixed feature of Portuguese law.

8.2 Fees

Table II of the proposed *Regulation* establishes the fee schedule for restraining orders.

8.3 Payment

A restraining order requires the payment of an additional justice tax. Thus ancillary procedures require an additional court fee adding to court costs in general.

8.4 Practical questions

Restraining orders are a frequent feature of litigation but are rarely discussed with clients, being a highly technical procedural device. As restraining orders continue to be subject to additional court fees, the access to justice by the citizenry continues to be burdened.

9 Court decisions

Court decisions are subject to notification by the clerk's office to counsel.

9.1 Cost of notification

The parties are advised by notification, without cost, of a court sentence.

9.2 Cost of obtaining an authenticated decision

Any authenticated copy of any court document is subject to payment.

10 Legal aid

Legal aid in Portugal is an adjunct of the welfare system. All requests for legal aid, as well as gratuitous legal consultations are processed by the social security system. However, Portugal has a broad definition of the *persona* requirements and they are broad and liberal for residents of the European Union.

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4. citizens of member states of the European Union
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6. foreigners without valid residence permits provided the other state would grant legal aid to a Portuguese citizen in the same conditions

In order to qualify for legal aid or gratuitous legal counsel, it is necessary that the recipient does not have sufficient economic means. The concept of insufficient economic means has undergone a recent change. With the publication on 28 August 2007, a family will be considered to have insufficient economic means if the aggregate family income does not exceed Euros 6,350. A family not reaching this platform will be exempt from court costs and entitled to reimbursement of counsel fees.

When economic insufficiency is claimed, such fact is examined by the services of the Portuguese social security, including bank accounts, delivery of documents including tax declarations, copies of registration of any real property, as well as any lease contracts.

Legal aid is therefore dependent on “economic insufficiency”. The elements of economic insufficiency are net income less necessary family charges and expenses with habitation. The applicable law-Ministerial Order n° 1085-A/2004 of 31 of August sets forth a complex formula to arrive at the final figure, whose formula is sufficiently complex that local social security agencies refer all applications to a department at the main office for purposes of calculation.

While the inability to utilize the formula on a regional level does not mean it is not fair or just, it does indicate the complexity of the application of the law.

In conclusion, legal aid in Portugal requires a very low subsistence level, whose veracity is subject to extensive examination.

An additional troublesome issue under the present legal aid regime is that the social security services have 30 days to respond to a request for legal aid. While a litigant will be suspended from paying any court costs by producing a copy of the request, the final decision may be unfavourable, in which event court costs will be forthcoming from the party. Thus, being a potential plaintiff, a party can wait until a decision from the social services. Being cited as a defendant, the party seeking legal aid may discover after the commencement of the law suit that court costs are and will be owed.

10.1 General

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7. citizens of member states of the European Union
8. foreigners or ex-patriots who have a valid residence permit in a member state of the European Union

9. foreigners without valid residence permits provided the other state would grant legal aid to a Portuguese citizen in the same conditions

10.2 Conditions of grant

In order to qualify for legal aid or gratuitous legal counsel, it is necessary that the recipient does not have sufficient economic means. The concept of insufficient economic means has undergone a recent change. With the publication on 28 August 2007, a family will be considered to have insufficient economic means if the aggregate family income does not exceed Euros 6,350. A family not reaching this platform will be exempt from court costs and entitled to reimbursement of counsel fees.

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While the inability to utilize the formula on a regional level does not mean it is not fair or just, it does indicate the complexity of the application of the law.

In conclusion, legal aid in Portugal requires a very low subsistence level, whose veracity is subject to extensive examination.

10.3 Strings attached

An additional troublesome issue under the present legal aid regime is that the social security services have 30 days to respond to a request for legal aid. While a litigant will be suspended from paying any court costs by producing a copy of the request, the final decision may be unfavourable, in which event court costs will be forthcoming from the party. Thus, being a potential plaintiff, a party can wait until a decision from the social services. Being cited as a defendant, the party seeking legal aid may discover after the commencement of the law suit that court costs are and will be owed.

10.4 Practical questions

The application of the legal aid law to those economically insufficient is extremely complex, so much so, that the local social security agencies refer the application of the law to the main offices in Lisbon or Porto. It is not an easy law to read or understand, not even for an attorney.

11 Personal experience

The personal experience of all parties interviewed regarding the subject of judicial costs in Portugal has been consistently the same. The regime of judicial costs is not easily understood, certainly not by the citizenry, and only partially by some counsel, and the attitude of the legal profession was summed up by an experienced instructor of judicial costs as being “best left to the court officials.”

12 Case studies

From case studies presented, the areas of family law (divorce, custody and alimony), commercial law (contract), and consumer law (breach of warranty) are considered, once in a national situation, and again in a transnational situation.

Portuguese civil procedure does not have any specific legislation directed or concerning transnational litigation. To the extent a local court may be requested to issue letters rogatory, or order a citation abroad, or to call for court documents in another jurisdiction, such procedures are additional acts subject to a table-established fee. The same act could be requested in a national action and the extra charges are not because of cross-border litigation *per se* but simply because the information sought is elsewhere.

12.1 Case study 1. Family Law. Divorce.

In case study 1, we have two situations. A national situation where both spouses are in the same jurisdiction, ie member state; they separate and then agree to a divorce. In the second situation, one of the spouses leaves a member state and returning to her domicile, in another member state, she files for a divorce in the member state where the other spouse is residing.

In Portugal, court costs are not affected by one spouse residing in another member state. Court costs are based upon the proceeding before the court, and there is no special costs imposed upon a non-resident litigant.

What may increase costs in the transnational situation is the need for testimony out of the jurisdiction of the hearing tribunal which requires letters interrogatories which of course increases court costs.

Moreover, the Case no. 1 assumes a separation followed by a divorce by agreement within the same jurisdiction. Very often, family law issues begin in a litigious fashion but then an agreement is reached between the parties, the law suit is withdrawn and the parties proceed by mutual consent before, regarding separation or divorce, the Civil Registry, which reduces costs drastically.

In order to understand the tables below, it must be borne in mind that 1 UC (unit of cost) equals Euros 96.00.

Case no. 1. In order to calculate fees, it is necessary to give a value to the case. In family law cases in Portugal, either one of the parties will allege damages, or the parties, in a case of mutual divorce, will set a value on the case. In case A, where it is a mutual divorce, we will assume a value of Euros 15,000 since the amount permits an appeal and thus falls within line 3, column 1 of table 1. In case B, a contested divorce, it would be unusual not to also seek alimony and maintenance of children in a separate, albeit joined action and here we will assume a value of a bit less than Euros 100,000 which makes applicable row 9 column 1 of table 1.

All values are obviously in Euros. Each litigant must advance the same amount unless the request is for documents or ancillary procedures, and then the requesting party pays.

Case Study	Court			Appeals			ADR
	Initial court fees	Transcription Fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this case?
Case A	3 UC or 288 Euros. However, if the separation or divorce is by mutual agreement there is no need for recourse to a court and fees before the Civil Registry,	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed.	1. There could easily be processes within the case which lead to costs of 3 UC or 288 Euros. 2. The court may assess a further 1-6 UC for complexity	1.5UC or 144 Euros	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed.	The court may assess a further 1-6 UC for complexity or 576 Euros	The Government has inaugurated a program where family issues can, with the consent of all parties, be heard before a mediator. This program is still in its experimental phase. The mediation

	<p>where a mutual agreement is filed, is quite modest, not exceeding Euros 750 to complete the entire process.</p>	<p>Normally, if an attorney wants copies of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48</p>	<p>or 576 Euros</p>		<p>Normally, if an attorney wants copies of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48</p>		<p>process has no appeal organization. However, the mediator has no powers to enforce a decision or sentence. The parties must voluntarily come to an agreement. There is no cost for the use of the mediation center and its staff.</p> <p>Furthermore, while in theory there are private ADR organizations their use for family law is too rare for helpful statistics.</p> <p>Even</p>
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							assuming, private arbitration, the costs are high. As an example, the Commercial Association of Lisbon has an arbitration center and fees more administrative costs would not be less than €2,493.98 for causes of minor value, increasing rapidly thereafter.
Case B	9 UC or 864	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present	1. There could easily be processes within the case which lead to costs of 3 UC or 288 Euros.	4.5 UC or Euros 432	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present	The court may assess a further 1-18 UC for complexity or up to 1728 Euros	The Government has inaugurated a program where family issues can, with the consent of all parties, be heard before

		<p>practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48</p>	<p>2. The court may assess a further 1-18 UC for complexity or up to 1728 Euros</p>		<p>practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48</p>		<p>a mediator. This program is still in its experimental phase. The mediation process has no appeal organization. However, the mediator has no powers to enforce a decision or sentence. The parties must voluntarily come to an agreement. There is no cost for the use of the mediation center and its staff. Furthermore, while in theory there are private ADR organizations their use for family law is</p>
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							<p>too rare for helpful statistics.</p> <p>Even assuming, private arbitration, the costs are high. As an example, the Commercial Association of Lisbon has an arbitration center and fees more administrative costs would not be less than €2,493.98 for causes of minor value, increasing rapidly thereafter</p>
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Case Study	Lawyer		Baliff-In Portugal a Solicitor of Execution performs the			Expert	
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			services normally reserved to Baliffs				
	Is representation compulsory	Average costs	Is representation compulsory?	Pre-judgment costs	Post-judgment costs	Is use Compulsory?	cost
Case A	<p>Only above the value of the court of first instance which is a bit less than Euros 15,000.</p> <p>However, for an uncontested divorce, ie one by mutual consent it is possible to avoid the court system and provided certain criteria are met, file the</p>	<p>For an uncontested divorce action, attorney costs would usually not exceed Euros 1,500.00</p>	<p>Only a solicitor of execution can perform the services in question, eg attachment of an object.</p>	<p>A minimum of Euros 288 and a maximum of Euros 432</p>	<p>The court can assess a up to a further 576 Euros</p>	no	<p>Per page 1/16 or 96 Euros or 6 euros per page</p>

	agreement at the Conservatory of Civil Registration						
Case B	Only above the value of the court of first instance which is a bit less than Euros 15,000.	For a contested divorce/separation counsel fees can easily be Euros 3,500 - 5,000.	Only a solicitor of execution can perform the services in question, eg attachment of an object.	864 Euros	Up to a further 432 Euros	no	Per page 1/16 or 96 Euros or 6 euros per page

Case	Witness Compensation		Pledge or Security		Other fees	
	Are witnesses Compensated?	Cost	Does this Exist and When and how is it used?	Cost	Description	Cost
Case A	Yes	1/12 of 1 UC or 8 Euros per dislocation	When ordered by the court for fear of asset being alienated	For amounts up to Euros 300,000 in value the cost is 288 Euros	A typical cost is an execution	For value up to Euros 300,000 the court cost is Euros 192
Case B	Yes	1/12 of 1 UC or 8	When ordered by	For amounts	A typical cost is an	For value up to

		Euros per dislocation	the court for fear of asset being alienated	up to Euros 300,000 in value the cost is 288 Euros	execution	Euros 300,000 the court cost is Euros 192
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Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total?	Conditions?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organization?
Case A	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	Yes	The formula is too complicated for tabular generalizations. Reimbursement can be from 1% to 100%	Costs not relevant to the process, i.e. they must be imposed by the court	No
Case B	When the income of the family	When the income	When the income of the family	Yes	The formula is too complicated	Costs not relevant to the	No

	aggregate is less than 6350 Euros annually	of the family aggregate is less than 6350 Euros annually	aggregate is less than 6350 Euros annually		for tabular generalizations. Reimbursement can be from 1% to 100%	process, i.e. they must be costs imposed by the court	
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Case	Translation		Interpretation		Other costs specific to cross-border disputes?	
	When and under what conditions is it necessary?	Approximate Costs?	When and under what conditions is it necessary?	Approximate cost?	Description?	Approximate cost?
Case A	When ordered by the court	1/20 of UC per page or 4.8 Euros per page	When ordered by the court.	1-2 UC per service or Euros 96-192 per service.	None.	None.
Case B	When ordered by the court	1/20 of UC per page or 4.8 Euros per page	When ordered by the court.	1-2 UC per service or Euros 96-192 per service.	None.	None.

12.2 Case Study 2. Family Law. Custody of the children.

In case study 2, we have a variation because of custody issues. In the first situation, custody rights over a child born from unmarried parents residing within the same member state, and a second situation, where one spouse is awarded custody, with access rights to the other spouse, but the custodial spouse moves to another member state and then attempts in the courts of that member state to modify access rights.

In Portugal, the two situations receive the same treatment in so far as court costs are concerned. There is no increase of court costs because of non-residency nor because of a non-marital status.

What may increase costs in the transnational situation is the need for testimony out of the jurisdiction of the hearing tribunal that requires letters interrogatories which of course increases court costs.

Moreover, we must assume a value of Euros 15,000 so as to permit an appeal and thus falls within line 3, column 1 of table 1 and what at issue in these examples is the custody of child.

Case no. 2

Case Study	Court			Appeals			ADR/Costs
	Initial court fees	Transcription fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this case?
Case A	3 UC or 288 Euros. However, if the separation or divorce is by	In Portugal, the Code of Court Costs does not have a separate charge for	1. There could easily be processes within the case which lead to	1.5UC or 144 Euros	In Portugal, the Code of Court Costs does not have a separate charge for	The court may assess a further 1-6 UC for complexity or 576 Euros	The Government has inaugurated a program where family issues can,

	<p>mutual agreement there is no need for recourse to a court and fees before the Civil Registry, where a mutual agreement is filed, is quite modest, not exceeding Euros 750 to complete the entire process.</p>	<p>transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48</p>	<p>costs of 3 UC or 288 Euros. 2. The court may assess a further 1-6 UC for complexity or 576 Euros</p>		<p>transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48</p>		<p>with the consent of all parties, be heard before a mediator. This program is still in its experimental phase. The mediation process has no appeal organization. However, the mediator has no powers to enforce a decision or sentence. The parties must voluntarily come to an agreement. There is no cost for the use of the mediation center and its staff. Furthermore, while in theory there are private</p>
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							ADR organizations their use for family law is too rare for helpful statistics. Even assuming, private arbitration, the costs are high. As an example, the Commercial Association of Lisbon has an arbitration center and fees more administrative costs would not be less than €2,493.98 for causes of minor value, increasing rapidly thereafter
Case B	9 UC or 864	In Portugal, the Code of Court Costs	1. There could easily be	4.5 UC or Euros	In Portugal, the Code of Court Costs	The court may assess a further	The Government has

		<p>does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of material, he can request to have the court file delivered to him and he can make his own photocopies. The delivery of a process to an attorney</p>	<p>processes within the case which lead to costs of 3 UC or 288 Euros.</p> <p>2. The court may assess a further 1-18 UC for complexity or up to 1728 Euros</p>	432	<p>does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of material, he can request to have the court file delivered to him and he can make his own photocopies. The delivery of a process to an attorney</p>	<p>1-18 UC for complexity or up to 1728 Euros</p>	<p>inaugurated a program where family issues can, with the consent of all parties, be heard before a mediator. This program is still in its experimental phase. The mediation process has no appeal organization. However, the mediator has no powers to enforce a decision or sentence. The parties must voluntarily come to an agreement. There is no cost for the use of the mediation center and its staff.</p>
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		costs €48			costs €48		<p>Furthermore, while in theory there are private ADR organizations their use for family law is too rare for helpful statistics. Even assuming, private arbitration, the costs are high. As an example, the Commercial Association of Lisbon has an arbitration center and fees more administrative costs would not be less than €2,493.98 for causes of minor value, increasing rapidly</p>
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							thereafter
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Case Study	Lawyer		Baliff-In Portugal a Solicitor of Execution performs the services normally reserved to Baliffs			Expert	
	Is representation compulsory	Average costs	Is representation compulsory?	Pre-judgment costs	Post-judgment costs	Is use Compulsory?	cost
Case A	Only above the value of the court of first instance which is a bit less than Euros 15,000. However, for an uncontested divorce, ie one by mutual	For an uncontested divorce action, attorney costs would usually not exceed Euros 1,500.00	Only a solicitor of execution can perform the services in question, eg attachment of an object.	A minimum of Euros 288 and a maximum of Euros 432	The court can assess a up to a further 576 Euros	no	Per page 1/16 or 96 Euros or 6 euros per page

	consent it is possible to avoid the court system and provided certain criteria are met, file the agreement at the Conservatory of Civil Registration						
Case B	Only above the value of the court of first instance which is a bit less than Euros 15,000.	For a contested divorce/separation counsel fees can easily be Euros 3,500 - 5,000.	Only a solicitor of execution can perform the services in question, eg attachment of an object.	864 Euros	Up to a further 432 Euros	no	Per page 1/16 or 96 Euros or 6 euros per page

Case	Witness Compensation		Pledge or Security		Other fees	
	Are witnesses Compensated?	Cost	Does this Exist and When and how is it used?	Cost	Description	Cost
Case A	Yes	1/12 of 1 UC or 8	When ordered by	For amounts	A typical cost is an	For value up to

		Euros per dislocation	the court for fear of asset being alienated	up to Euros 300,000 in value the cost is 288 Euros	execution	Euros 300,000 the court cost is Euros 192
Case B	Yes	1/12 of 1 UC or 8 Euros per dislocation	When ordered by the court for fear of asset being alienated	For amounts up to Euros 300,000 in value the cost is 288 Euros	A typical cost is an execution	For value up to Euros 300,000 the court cost is Euros 192

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total?	Conditions?	Can the winning party obtain reimbursement Of litigation costs?	If reimbursement is not total what is percentage in general?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organization?
Case	When the	When	When the	Yes	The formula is	Costs not	No

A	income of the family aggregate is less than 6350 Euros annually	the income of the family aggregate is less than 6350 Euros annually	income of the family aggregate is less than 6350 Euros annually		too complicated for tabular generalizations . Reimbursement can be from 1% to 100%	relevant to the process, i.e. they must be costs imposed by the court	
Case B	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	Yes	The formula is too complicated for tabular generalizations . Reimbursement can be from 1% to 100%	Costs not relevant to the process, i.e. they must be costs imposed by the court	No

Case	Translation		Interpretation		Other costs specific to cross-border disputes?	
	When and under what conditions is it	Approximate Costs?	When and under what conditions is it necessary?	Approximate cost?	Description?	Approximate cost?

	necessary?					
Case A	When ordered by the court	1/20 of UC per page or 4.8 Euros per page	When ordered by the court.	1-2 UC per service or Euros 96-192 per service.	None.	None.
Case B	When ordered by the court	1/20 of UC per page or 4.8 Euros per page	When ordered by the court.	1-2 UC per service or Euros 96-192 per service.	None.	None.

12.3 Case Study 3. Family law. Alimony.

In the two hypothetical cases given, there is a substantial difference of legal norms. In the first example, both parties are in the same member state and an un-married mother sues her companion for alimony for support of a child born to the couple. Clearly the relevant member state has jurisdiction over the parties.

In the second example given, the unmarried mother moves to another member state, with the child, and then, in that member state, seeks to procure a judgment for alimony for support from her former companion. In Portugal, where the court of the mother to grant her a favorable sentence, such a sentence would have to be confirmed in the courts of Portugal.

However, what is at issue are not court costs, but personal jurisdiction over a party. In so far as Portugal is concerned, court costs are not increased because of the nature of the cause or one of the parties is a non-resident.

What may increase costs in the transnational situation is the need for testimony out of the jurisdiction of the hearing tribunal which requires letters interrogatories which of course increases court costs.

Once again, we must assume amounts for purposes of establishing costs. For Case A we will assume Euros 15,000; we Case B we will assume a bit less than Euros 300,000.

Case no. 3

Case Study	Court			Appeals			ADR/Costs
	Initial court fees	Transcription fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this case?
Case A	3 UC or 288 Euros. However, if the separation or divorce is by mutual agreement there is no need for recourse to a court and fees before the Civil Registry, where a mutual agreement is filed, is quite modest,	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of	1. There could easily be processes within the case which lead to costs of 3 UC or 288 Euros. 2. The court may assess a further 1-6 UC for complexity or 576 Euros	1.5UC or 144 Euros		The court may assess a further 1-6 UC for complexity or 576 Euros	The Government has inaugurated a program where family issues can, with the consent of all parties, be heard before a mediator. This program is still in its experimental phase. The mediation process has no appeal organization. However, the mediator has no powers to

	<p>not exceeding Euros 750 to complete the entire process.</p>	<p>material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48</p>				<p>enforce a decision or sentence. The parties must voluntarily come to an agreement. There is no cost for the use of the mediation center and its staff. Furthermore, while in theory there are private ADR/Costs organizations their use for family law is too rare for helpful statistics. Even assuming, private arbitration, the costs are high. As an example, the Commercial Association of</p>
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							Lisbon has an arbitration center and fees more administrative costs would not be less than €2,493.98 for causes of minor value, increasing rapidly thereafter.
Case B	9 UC or 864	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney	1. There could easily be processes within the case which lead to costs of 3 UC or 288 Euros. 2. The court may assess a further 1-18 UC for complexity or up to 1728 Euros	4.5 UC or Euros 432	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney	The court may assess a further 1-18 UC for complexity or up to 1728 Euros	The Government has inaugurated a program where family issues can, with the consent of all parties, be heard before a mediator. This program is still in its experimental phase. The mediation process has no appeal

		<p>wants copies of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48</p>			<p>wants copies of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48</p>		<p>organization. However, the mediator has no powers to enforce a decision or sentence. The parties must voluntarily come to an agreement. There is no cost for the use of the mediation center and its staff. Furthermore, while in theory there are private ADR organizations their use for family law is too rare for helpful statistics. Even assuming, private arbitration, the costs are</p>
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							high. As an example, the Commercial Association of Lisbon has an arbitration center and fees more administrative costs would not be less than €2,493.98 for causes of minor value, increasing rapidly thereafter.
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Case Study	Lawyer		Baliff-In Portugal a Solicitor of Execution performs the services normally reserved to Baliffs			Expert	
	Is representation compulsory	Average costs	Is representation compulsory?	Pre-judgment costs	Post-judgment costs	Is use Compulsory?	cost
Case A	Only above the value of	For an unconteste	Only a solicitor of execution can	A minimum	The court	no	Per page 1/16 or

	<p>the court of first instance which is Euros 14,963.94</p> <p>However, for an uncontested divorce, ie one by mutual consent it is possible to avoid the court system and provided certain criteria are met, file the agreement at the Conservatory of Civil Registration</p>	<p>d divorce action, attorney costs would usually not exceed Euros 1,500.00</p>	<p>perform the services in question, eg attachment of an object.</p>	<p>of Euros 288 and a maximum of Euros 432</p>	<p>can assess a up to a further 576 Euros</p>		<p>96 Euros or 6 euros per page</p>
Case B	<p>Only above the value of the court of first instance which is Euros</p>	<p>For a contested divorce/separation counsel fees can easily be</p>	<p>Only a solicitor of execution can perform the services in question, eg attachment of an object.</p>	<p>864 Euros</p>	<p>Up to a further 432 Euros</p>	<p>no</p>	<p>Per page 1/16 or 96 Euros or 6 euros per page</p>

	14,963.94.	Euros 3,500 - 5,000.					
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Case	Witness Compensation		Pledge or Security		Other fees	
	Are witnesses Compensated?	Cost	Does this Exist and When and how is it used?	Cost	Description	Cost
Case A	Yes	1/12 of 1 UC or 8 Euros per dislocation	When ordered by the court for fear of asset being alienated	For amounts up to Euros 300,000 in value the cost is 288 Euros	A typical cost is an execution	For value up to Euros 300,000 the court cost is Euros 192
Case B	Yes	1/12 of 1 UC or 8 Euros per dislocation	When ordered by the court for fear of asset being alienated	For amounts up to Euros 300,000 in value the cost is 288 Euros	A typical cost is an execution	For value up to Euros 300,000 the court cost is Euros 192

Case	Legal Aid			Reimbursement			
	When and under which	When is support	Conditions?	Can the winning party	If reimbursement is not total	What costs are never reimbursed?	Are there instances when legal

	conditions is it applicable ?	total?		obtain reimbursement Of litigation costs?	what is percentage in general?		aid should be reimbursed to the legal aid organization ?
Case A	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	Yes	The formula is too complicated for tabular generalizations. Reimbursement can be from 1% to 100%	Costs not relevant to the process, i.e. they must be costs imposed by the court	No
Case B	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	Yes	The formula is too complicated for tabular generalizations. Reimbursement can be from 1% to 100%	Costs not relevant to the process, i.e. they must be costs imposed by the court	No

Case	Translation		Interpretation		Other costs specific to	

					cross-border disputes?	
	When and under what conditions is it necessary?	Approximate Costs?	When and under what conditions is it necessary?	Approximate cost?	Description?	Approximate cost?
Case A	When ordered by the court	1/20 of UC per page or 4.8 Euros per page	When ordered by the court.	1-2 UC per service or Euros 96-192 per service.	None.	None.
Case B	When ordered by the court	1/20 of UC per page or 4.8 Euros per page	When ordered by the court.	1-2 UC per service or Euros 96-192 per service.	None.	None.

12.4 Case Study 4. Commercial law. Contract.

Under the facts given in these examples we have two situations, one for breach of contract between parties of the same member state, and another where one party from one member state sues another party in the member state of the defendant. In Portugal the court costs in these two examples are the same.

What may increase costs in the transnational situation is the need for testimony out of the jurisdiction of the hearing tribunal which requires letters interrogatories which of course increases court costs.

The values established for Case study 4 are Euros 20,000.

Case Study	Court			Appeals			ADR
	Initial court fees	Transcription fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this case?
Case A	4 UC or 384 Euros.	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of material, he	1. There could easily be processes within the case which lead to costs of 3 UC or 288 Euros. 2. The court may assess a further 1-8 UC for complexity or a further maximum of 768 Euros	2 UC or 192 Euros	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of material, he	The court may assess a further 1-8 UC for complexity or a further maximum of 768 Euros	Yes

		can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48			can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48		
Case B	4 UC or 384 Euros	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies	1. There could easily be processes within the case which lead to costs of 3 UC or 288 Euros. 2. The court may assess a further 1-8 UC for complexity or up to 1728 Euros	2 UC or Euros 192	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies	The court may assess a further 1-8 UC for complexity or up to 768 Euros	Yes

		of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48			of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48		

In both cases A and B above costs can be described as follows

Costs
Costs for private commercial arbitration is determined by internal regulation of the arbitration center. As an example, the Commercial Association of Lisbon has an arbitration center and fees more administrative costs would not be less than €2,493.98 for causes of minor value, increasing rapidly thereafter. However, the Portuguese Government has established mediation consumer centers in various parts of Portugal for which there are no costs.
Costs for private commercial arbitration is determined by internal regulation of the arbitration center. As an example, the Commercial Association of Lisbon has an arbitration center and fees more administrative costs would not be less than €2,493.98 for causes of minor value, increasing rapidly thereafter. However, the Portuguese Government has established mediation consumer centers in various parts of Portugal for which there are no costs.



Case Study	Lawyer		Baliff-In Portugal a Solicitor of Execution performs the services normally reserved to Baliffs			Expert	
	Is representaton compulsory	Average costs	Is representation compulsory?	Pre-judgment costs	Post-judgment costs	Is use Compulsory?	cost
Case A	Only above the value of the court of first instance which is Euros 14,963.94.	For the amount in question, ie Euros 20,000Euros, counsel fees would not exceed 1,500.00	Only a solicitor of execution can perform the services in question, eg attachment of an object.	A minimum of Euros 384	The court can assess a up to a further 768 Euros	no	Per page 1/16 or 96 Euros or 6 euros per page
Case B	Only above the value of the court of first instance which is Euros 14,963.94.	For a contested commercial claim, counsel fees can easily be Euros 3,500.	Only a solicitor of execution can perform the services in question, eg attachment of an object.	A minimum of 384 Euros	Up to a further 768 Euros	no	Per page 1/16 or 96 Euros or 6 euros

								per page
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Case	Witness Compensation		Pledge or Security		Other fees	
	Are witnesses Compensated?	Cost	Does this Exist and When and how is it used?	Cost	Description	Cost
Case A	Yes	1/12 of 1 UC or 8 Euros per dislocation	When ordered by the court for fear of asset being alienated	For amounts up to Euros 300,000 in value the cost is 288 Euros	A typical cost is an execution	For value up to Euros 300,000 the court cost is Euros 192
Case B	Yes	1/12 of 1 UC or 8 Euros per dislocation	When ordered by the court for fear of asset being alienated	For amounts up to Euros 300,000 in value the cost is 288 Euros	A typical cost is an execution	For value up to Euros 300,000 the court cost is Euros 192

Case	Legal Aid			Reimbursement		
	When and under which	When is support	Conditions?	Can the winning party obtain	If reimbursement is not total	What costs are never reimbursed

	conditions is it applicable ?	total?		reimbursement Of litigation costs?	what is percentage in general?	?
Case A	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	Yes	The formula is too complicated for tabular generalizations . Reimbursement can be from 1% to 100%	Costs not relevant to the process, i.e. they must be costs imposed by the court
Case B	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	Yes	The formula is too complicated for tabular generalizations . Reimbursement can be from 1% to 100%	Costs not relevant to the process, i.e. they must be costs imposed by the court

Are there instances when legal aid should be reimbursed to the legal aid organization?
No as to Case A
No as to Case B

Case	Translation		Interpretation		Other costs specific to cross-border disputes?	
	When and under what conditions is it necessary?	Approximate Costs?	When and under what conditions is it necessary?	Approximate cost?	Description?	Approximate cost?
Case A	When ordered by the court	1/20 of UC per page or 4.8 Euros per page	When ordered by the court.	1-2 UC per service or Euros 96-192 per service.	None.	None.
Case B	When ordered by the court	1/20 of UC per page or 4.8 Euros per page	When ordered by the court.	1-2 UC per service or Euros 96-192 per service.	None.	None.

12.5 Case Study 5. Commercial Law. Responsibility.

The hypothetical cases given involve defective merchandise sold where, in the first case, the parties to the transaction all reside in the member state and the second case, where the parties involved reside in different member states (three in all) and the injured consumer sues in one member state seeking compensation from parties in other member states.

What may increase costs in the transnational situation is the need for testimony out of the jurisdiction of the hearing tribunal which requires letters interrogatories which of course increases court costs.

The values established for Case study 5 are Euros 20,000.

Case Study	Court			Appeals			ADR/Costs
	Initial court fees	Transcription fees	Other fees	Initial court fees	Transcription fees	Other fees	Is this option open for this case?
Case A	4 UC or 384 Euros.	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of material, he	1. There could easily be processes within the case which lead to costs of 3 UC or 288 Euros. 2. The court may assess a further 1-8 UC for complexity or a further maximum of 768 Euros	2 UC or 192 Euros	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies of a substantial amount of material, he	The court may assess a further 1-8 UC for complexity or a further maximum of 768 Euros	Yes

		can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48			can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48		
Case B	4 UC or 384 Euros	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies	1. There could easily be processes within the case which lead to costs of 3 UC or 288 Euros. 2. The court may assess a further 1-8 UC for complexity or up to 1728 Euros	2 UC or Euros 192	In Portugal, the Code of Court Costs does not have a separate charge for transcription fees. However, the present practice in courts is to charge €1.92 for each page transcribed. Normally, if an attorney wants copies	The court may assess a further 1-8 UC for complexity or up to 768 Euros	Yes

		of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48			of a substantial amount of material, he can request to have the court file delivered to him and he can make his on photocopies. The delivery of a process to an attorney costs €48		

In both Cases A and B, the Commercial Association of Lisbon has an arbitration center and fees more administrative costs would not be less than €2,493.98 for causes of minor value, increasing rapidly thereafter.

Case Study	Lawyer		Baliff-In Portugal a Solicitor of Execution performs the services normally reserved to Baliffs			Expert	
	Is	Average	Is	Pre-	Post-	Is use	cost

	representaton compulsory	costs	representation compulsory?	judgment costs	judgment costs	Compulsory?	
Case A	Only above the value of the court of first instance which is Euros 14,963.94.	For the amount in question, ie Euros 20,000Euros, counsel fees would not exceed 1,500.00	Only a solicitor of execution can perform the services in question, eg attachment of an object.	A minimum of Euros 384	The court can assess a up to a further 768 Euros	no	Per page 1/16 or 96 Euros or 6 euros per page
Case B	Only above the value of the court of first instance which is Euros 14,963.94.	For a contested commercial claim, counsel fees can easily be Euros 3,500.	Only a solicitor of execution can perform the services in question, eg attachment of an object.	A minimum of 384 Euros	Up to a further 768 Euros	no	Per page 1/16 or 96 Euros or 6 euros per page

Case	Witness Compensation		Pledge or Security		Other fees	
	Are witnesses Compensated?	Cost	Does this Exist and When and how is it used?	Cost	Description	Cost
Case A	Yes	1/12 of 1 UC or 8 Euros per	When ordered by the court	For amounts up to	A typical cost is an execution	For value up to Euros

		dislocation	for fear of asset being alienated	Euros 300,000 in value the cost is 288 Euros		300,000 the court cost is Euros 192
Case B	Yes	1/12 of 1 UC or 8 Euros per dislocation	When ordered by the court for fear of asset being alienated	For amounts up to Euros 300,000 in value the cost is 288 Euros	A typical cost is an execution	For value up to Euros 300,000 the court cost is Euros 192

Case	Legal Aid			Reimbursement			
	When and under which conditions is it applicable?	When is support total?	Conditions?	Can the winning party obtain reimbursement of litigation costs?	If reimbursement is not total what is percentage in general?	What costs are never reimbursed?	Are there instances when legal aid should be reimbursed to the legal aid organization?
Case A	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less	When the income of the family aggregate is less than 6350 Euros annually	Yes	The formula is too complicated for tabular generalizations. Reimbursement can be from 1%	Costs not relevant to the process, i.e. they must be costs imposed by	No

		than 6350 Euros annually			to 100%	the court	
Case B	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	When the income of the family aggregate is less than 6350 Euros annually	Yes	The formula is too complicated for tabular generalizations. Reimbursement can be from 1% to 100%	Costs not relevant to the process, i.e. they must be imposed by the court	No

Case	Translation		Interpretation		Other costs specific to cross-border disputes?	
	When and under what conditions is it necessary?	Approximate Costs?	When and under what conditions is it necessary?	Approximate cost?	Description?	Approximate cost?
Case A	When ordered by the court	1/20 of UC per page or 4.8 Euros per page	When ordered by the court.	1-2 UC per service or Euros 96-192 per service.	None.	
Case	When	1/20 of UC	When ordered	1-2 UC per	None.	

B	ordered by the court	per page or 4.8 Euros per page	by the court.	service or Euros 96-192 per service.		
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13. Tables, Portuguese and English



PRESIDÊNCIA DO CONSELHO DE MINISTROS

Do Regulamento das Custas Processuais

TABELA I

(Tabela a que se referem os artigos 6.º, 7.º, 12.º, 13.º e 14.º do Regulamento das Custas Processuais)

Valor da acção (EURO)		Taxa de Justiça (UC) ¹		
		A Art. 6.º n.º 1 RCP	B Arts. 6.º n.º 2, 7.º, n.º 2 e 13.º n.º 1, 14.º, n.º 6 RCP	C Arts. 6.º n.º 4 e 14.º n.º 3 RCP
1	Até €2.000,00	1	0.5	2
2	De €2.000,01 a 8.000,00	2	1	4
3	De €8.000,01 a 16.000,00	3	1.5	6
4	De €16.000,01 a 24.000,00	4	2	8
5	De €24.000,01 a 30.000,00	5	2.5	10
6	De €30.000,01 a 40.000,00	6	3	12
7	De €40.000,01 a 60.000,00	7	3.5	14
8	De €60.000,01 a 80.000,00	8	4	16
9	De €80.000,01 a 100.000,00	9	4.5	18
10	De €100.000,01 a 150.000,00	10	5	20
11	De €150.000,01 a 200.000,00	12	6	24
12	De €200.000,01 a 250.000,00	14	7	28
13	De €250.000,01 a 300.000,00	15	7.5	30
14	De €300.000,01 a 350.000,00	16	8	32
15	De €350.000,01 a 400.000,00	18	9	36
16	De €400.000,01 a 600.000,00	20	10	40
17	A partir de €600.000,01	20 a 60	10 a 20	60 a 90

¹ Aplicável a cada parte ou conjunto de sujeitos processuais.

Process Costs Regulation

(Table which refers to Articles 6,7,12,13 & 14 of the Regulation of Court Costs

Value of action in Euros		<u>Justice Tax</u> <u>(UC) 1</u> [editor's note:Minimum tax]	[editor's note:Generally for appeals]	[editor's note:Additional costs because of complexity]
		A Article 6, n°1, RCP	B Article 6, n° 2,7, n° 2 & 13, n° 1,14, n°6 RCP	C Articles 6, n° 4, & 14, n°3, RCP
1	Up to € 2,000.00	1	0.5	2
2	€ 2,000.01 to 8,000.00	2	1	4
3	€ 8,000.01 to 16,000.00	3	1.5	6
4	€16,000.01 to 24,000.00	4	2	8
5	€24,000.01 to 30,000.00	5	2.5	10
6	€30,000.01 to 40,000.00	6	3	12
7	€40,000.01 to 60,000.00	7	3.5	14
8	€60,000.01 to 80,000.00	8	4	16

9	€80,000.00 to 100,000.00	9	4.5	18
10	€100,000.01 to 150,000.00	10	5	20
11	€150,000.01 to 200,000.00	12	6	24
12	€200,000.01 to 250,000.00	14	7	28
13	€250,000.01 to 300,000.00	15	7.5	30
14	€300,000.01 to 350,000.00	16	8	32
15	€350,000.01 to 400,000.00	18	9	36
16	€400,000.01 to 600,000.00	20	10	40
17	Above €600,000.01G	20 to 60	10 to 20	40



PRESIDÊNCIA DO CONSELHO DE MINISTROS

TABELA II

(Tabela a que se refere o artigo 7.º, n.º 1, 3 e 5 do Regulamento)

Incidente/Procedimento/Execução		Taxa de Justiça (UC)
Procedimentos Cautelares	Até €300.000,00	3
	Procedimentos de valor superior a € 300.000,01	8
	Procedimentos de especial complexidade	9 a 20
Restituição provisória de posse / Alimentos provisórios / Arbitramento de reparação provisória/ Regulação provisória do pagamento de quantias		1
Processos administrativos urgentes (artigos 97.º e 100.º do CPTA)		1
Impugnação de procedimentos cautelares adoptados pela administração tributária/ Impugnação de actos de autoliquidação, substituição tributária e pagamentos por conta		2
Incidente de intervenção provocada principal ou acessória de terceiros e oposição provocada	Até €300.000,00	2
	Acções de valor superior a € 300.000,01	4
Incidentes / Procedimentos Anómalos		1 a 3
Incidente de verificação do valor da causa/ Produção antecipada de prova		1
Execução/ Reclamação de créditos	Até €300.000,00	2
	Superior a €300.000,01	4
	Com agente de execução que não seja oficial de justiça	1
Oposição à execução ou à penhora/ Embargos de terceiro	Até €300.000,00	3
	Execuções de valor superior a € 300.000,01	6
	Incidentes de especial complexidade	7 a 14
Injunção e oposição à injunção	Valores até €5.000,00	0,5
	De €5.000,01 a €15.000,00	1
	A partir de €15.000,01	1,5

Table 2 of the *Regulation* referring to Article 7 “Special Rules”, nos. 1, 3, & 5

Incident/Process/Execution		Justice Tax (UC)
Provisional Remedies such as preliminary injunctions	<u>Up to € 300,000</u>	3
	<u>Superior _____ to €300,000.01</u>	8
	<u>Process of special complexity</u>	9-20
Provisional restitution of possession/temporary maintenance/Arbitral decision as to provisional indemnities		1
Urgent administrative processes (articles 97 & 100 of Code of Process of Administrative Tribunals)		1
Contesting provisional remedies adopted by the tax authorities/contesting acts of auto-liquidation, tax substitution and payment by account		2
Incident provoked by principal or third parties and opposition provoked	<u>Up to € 300,000</u>	2
	<u>Superior _____ to €300,000.01</u>	4
Incidents/Anomalous processes		1-3
Verification of value of cause/Anticipated		1

production of evidence		
Execution/Reclamation of credits	<u>Up to € 300,000</u>	2
	<u>Superior to €300,000.01</u>	4
	<u>With agent of execution who is not court official</u>	1
Opposition to execution or attachment/Embargos by third parties	<u>Up to € 300,000</u>	3
	<u>Superior to €300,000.01</u>	6
	<u>Process of special complexity</u>	7 to 14
Injunction and opposition to injunction	<u>Values up to €5,000.00</u>	.5
	<u>From €5,000.01 to €15,000.00</u>	1
	<u>Above €15,000.01</u>	1.5



PRESIDÊNCIA DO CONSELHO DE MINISTROS

TABELA IV

(Tabela a que se refere o artigo 18.º, n.º 2, 4 do Regulamento)

Categoria	Remuneração por serviço/ deslocação (A)	Remuneração por fracção/página (B)
Peritos e peritagens	1 UC a 10 UC (serviço)	1/16 de UC (página)
Traduções	—————	1/20 de UC (página)
Intérpretes	1 UC a 2 UC (serviço)	—————
Testemunhas	1/12 de UC (deslocação)	—————
Consultores técnicos	1 UC a 10 UC (serviço)	1/16 de UC (página)

Table 4 which refers to article 18, no. 2, 4 of the *Regulation*

category	Remuneration by service/dislocation (A)	Remuneration by fraction/page (B)
Experts and reports	1 UC to 10 UC (service)	1/16 of UC (page)
translations		1/20 of UC (page)
interpreters	1 UC to 2 UC (service)	
witnesses	1/12 of UC (dislocation)	
consultants	1 UC to 10 UC (service)	1/16 of UC (page)

14. Insurance against civil responsibility of lawyers

In Portugal, it is mandatory for practising attorneys inscribed in the Bar Association to have an insurance policy against civil responsibility. This regulation applies to attorneys practising law, and not those with a law degree. The person in question must be holding himself out to the public as rendering legal services. The minimum amount is Euros 15,000.00. While insurance companies vary in their coverage, an average maximum amount is Euros 375,000-500,000.00.

A typical premium for professional liability is approximately Euros 300.00 for the value indicated in the above paragraph.

Regarding cross-border disputes within the judicial system of Portugal, the premium and coverage would not be affected. For insurance purposes, in principle the responsibility of an attorney is for his advice given to a client in Portugal concerning his rights in a Portuguese court. Obviously, however, the subject of civil responsibility of an attorney is complex and requires a thorough examination of a particular insurance policy as well as its application to a specific set of facts.

The insurance policy covers all monetary responsibility of an attorney to a client for mal-practice.

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Lisboa, 28 de Maio 2007