

ANNEX 31

- Country Report FINLAND

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

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- COUNTRY REPORT -

- FINLAND -

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ANNEXE 1 Questionnaire completed for the implementation of this study

COUNTRY REPORT

Preliminary notes

Answering the questions included in the study on civil judicial proceedings has been, to some extent, difficult. Firstly, research on costs associated with civil judicial proceedings has not been very exhaustive in Finland. Although information is available, it is very seldomly presented in a manner that would be purposeful in the context of this study. Where information on costs is available, it is usually not broken down by areas of law or does not distinguish between costs of criminal proceedings and costs of civil proceedings. Secondly, in trying to provide answers to general questions on costs, the task of providing average costs proved quite demanding, as costs vary greatly with the circumstances of each case. Therefore numerical averages can be highly misleading. Thirdly, as some concepts and terminology used in the study are not easily transferrable to the Finnish legal system, it seemed at times difficult to provide meaningful answers. Lastly, it seemed that the basis for the study was an assumption that transparency regarding the costs of civil judicial proceedings is insufficient. The aforementioned difficulties in providing accurate answers to general questions notwithstanding, transparency of costs of civil judicial

proceedings is not held to be a problem in Finland. Information is widely available on the internet and by calling professionals.

The study contains detailed questions on lawyers' fees broken down by, e.g., areas of law. However, as no statistics exist in Finland which would follow a similar approach in discussing lawyers' fees, only general averages for lawyers' fees have been established. In general, lawyers' fees range from EUR 91 per hour to EUR 500 per hour, where the minimum is the fee applied in legal aid matters. Average hourly rates of more than EUR 400 are rare in court proceedings. According to a recent study of the Finnish Bar Association, the average hourly fee for members of the Bar concerning criminal as well as civil matters was EUR 171 per hour.

According to our knowledge, it is rare for lawyers to charge different hourly rates based on, e.g., the area of law that a mandate concerns. However, there are significant differences between the hourly rates charged by different lawyers.

With respect to the terminology used in the study, as the study did not define any of the terms used, we have made the following assumptions:

We assume that transcription costs in this study refer to the notarizing of documents or a similar procedure of document authentication by an official entity. Simultaneously, we would like the reader to note that notarizing documents is in general not required under Finnish law for purposes of relevance to civil judicial proceedings (e.g. enforcement of awards) and thus the cost is not mandatory.

We understand the study to refer to the term "bailiff" in two distinct functions. First, we understand the term bailiff to refer to the function of serving notices and other official documents on persons, i.e. a process-server (which is the normal meaning of the term bailiff in Finland). Secondly, a bailiff is the authority that executes court decisions, i.e. the executive authority. In the following, the term bailiff is used to cover both these functions.

The term 'expert' has a specific meaning under the Finnish Code of Judicial Procedure. Experts, under this definition, are court-appointed specialists. In practice, experts are used quite rarely and only in specific types of litigations such as child custody cases.

With respect to accreditation procedures of translators and interpreters, please note that there are no accreditation procedures for interpreters, whereas such procedure does exist for translators. However, in practice, the relevance of a translator being accredited is limited. Under the doctrine of free evaluation of evidence, courts are not likely to dismiss a translation solely for the reason that the translator is not accredited.

The study makes reference to pledges and security deposits. Under Finnish law, pledges and security deposits are relevant only in connection with precautionary measures. Where a party applies for a precautionary measure, such party may be requested by the bailiff to provide security for potential damage to the party against whom such precautionary measure is directed.

The chapter concerning court fees includes a sub-chapter on ADR. We would like to remark that the term ADR has no uniformly accepted meaning in Finland. Thus, ADR may be regarded to include dispute resolution mechanisms such as mediation, conciliation, negotiation etc. As ADR is to be discussed under the heading court fees, we have primarily discussed court-annexed mediation.

Lastly, we would like the reader to note that the order in which matters are addressed in this report follow from the order presented in the study.

Introduction

The method for answering the questions of the study has been to research publicly available information such as studies published in Finland as well as web sites. Secondly, a limited number of interviews of professionals were conducted and professional organizations were contacted for information.

Executive Summary

1 Summary of the mains sources of costs

Costs associated with civil judicial proceedings in Finland follow to a large extent from lawyers' fees. Court fees and fees of other authorities (e.g. costs for bailiff notification, if applicable) are not, in general, significant in comparison. The costs due to witness compensation are, in general, negotiable between the party calling the witness and the witness. Thus, such costs vary greatly. Expert costs are, in general, not relevant from a Finnish perspective. Similarly, the costs for translation and interpretation are in general minor in comparison to lawyers' fees.

2 Level of transparency in the sources of costs

The level of transparency of costs is in general held to be sufficient and information is easily available. This applies both to the sources of costs and to actual costs. As concerns

official costs it is possible to give reasonably accurate estimates of costs to the clients whereas it is perceived to be more difficult to estimate legal fees in advance, as often cases turn out to be more complicated than initially expected.

3 Determination of the amounts of costs

Official costs such as court fees and bailiff fees are laid down by Government Decrees in Finland (which are publicly available on the internet, free of charge). Costs that result from actions of private service-providers, such as lawyers, interpreters and translators, are determined by the service-providers themselves. Witness compensation is negotiable between the witness and the party calling the witness. Ultimately, if the witness and the party nominating him are not able to agree on compensation, the court will render a decision on reasonable compensation. In practice, witness costs are usually agreed in advance.¹

4 Level of transparency in determining the actual costs

The level of transparency of costs is in general held to be sufficient and information is easily available. This applies both to the sources of costs and to actual costs. As concerns official costs it is possible to give reasonably accurate estimates of costs to the clients whereas it is perceived to be more difficult to estimate legal fees in advance, as often cases turn out to be more complicated than initially expected.

¹ In the instructions we have received, we have been asked to include information on general wages in Finland under this question. Average income in Finland in 2006 for all employees was EUR 2612 per month.

Similarly, we were instructed to include information of average costs for civil proceedings in Finland. No statistics exist on average costs of such proceedings. However, the greatest part of costs of civil proceedings will follow from legal fees of lawyers. On the basis of the Legal Aid Act, which stipulates that more than 100 hours may only be charged by the legal aid lawyer in a case if the court holds this to be reasonable, it may be assumed that on average a case involves less than 100 hours of lawyers' work. This would indicate that average costs would be below EUR 20,000.

All fees of official entities, such as court fees and bailiff fees, are laid down by an act or decree. All Finnish acts and decrees are published online on a public server at www.finlex.fi. All fees charged by private service-providers, such as lawyers' fees and translators' fees, are determined by the service-provider himself/herself. In general, all service-providers will give a fee-estimate free of charge.

5 Proportion of each indentified cost on the overall volume of activity

COURT FEES

1 - 10 %, depending on the other costs

BAILIFF FEES

1 - 5 %

LAWYER FEES

70 - 90 %

EXPERT FEES

0 - 2 %

WITNESS COMPENSATION

1 - 5 %

TRANSLATION/INTERPRETATION

1 - 15 %

6 Proportion of each indentified cost on the value of disputed claim

COURT FEES

1 - 10 %, depending on the other costs

BAILIFF FEES

1 - 5 %

LAWYER FEES

70 - 90 %

EXPERT FEES

0 - 2 %

WITNESS COMPENSATION

1 - 5 %

TRANSLATION/INTERPRETATION

1 - 15 %

7 Specificities in relation to EU cross-border disputes

There are no special costs associated with cross-border disputes. Finnish courts and authorities do not have higher fees for cross-border disputes. Naturally, if lawyers from several jurisdictions need to be involved, extra costs may easily arise due to the time necessary for coordinating the co-operation between the lawyers. Some lawyers charge a higher hourly fee if the work performed is done in a foreign language.

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

Please note that costs are not dependent on the value of the disputed claim in Finland.

COURT FEES

1 - 10 %, depending on the other costs

BAILIFF FEES

1 - 5 %

LAWYER FEES

70 - 90 %

EXPERT FEES

0 - 2 %

WITNESS COMPENSATION

1 - 5 %

TRANSLATION/INTERPRETATION

1 - 15 %

9 Recommendations for EU action/national action

As transparency of costs in Finland is in general held to be sufficient, there does not seem to be any immediate need to increase transparency. However, many Finnish professionals do feel that it is difficult to obtain information on costs of civil judicial proceedings in other countries.

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

As transparency is in general held to be sufficient, one cannot say that any obvious correlation between access to justice and transparency of costs would exist. The costs of justice, naturally, affect access to justice.

11 Conclusions and recommendations

As transparency is in general held to be sufficient, one cannot say that any obvious correlation between access to justice and transparency of costs would exist. The costs of justice, naturally, affect access to justice.

Detailed Draft Report

1 General Questions

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

In general, information on costs is relatively widely available on the internet. Both public websites and private websites allow access to information on costs of justice. Information on fees and costs of justice is not normally available as brochures (with the exception of information on witness fees). Additionally, information is accessible by calling professionals and the courts as well as legal aid offices, and to some extent, non-governmental organisations. There are no special information centres in Finland that provide information on costs of justice, although in general the courts will have most of the relevant information. In general, information on costs of justice is provided free of charge.

Thus, in general, the level of transparency regarding costs of justice is regarded to be sufficient in Finland.

1.2 Transparency perception

In Finland, legal aid offices are central in aiding people who face difficulties in accessing justice. The Finnish Bar Association also provides free legal advice.

Information on the costs of justice is held to be sufficiently accessible in Finland. Therefore the problems some people may face in accessing justice cannot, in general, be explained by a lack of information regarding costs.

According to interviewed lawyers, as regards the transparency of costs of civil judicial proceedings before foreign courts, there is a lack of transparency. Most interviewed lawyers felt that it was difficult to acquire information on costs in foreign judicial systems.

1.3 Solutions to improve transparency

Finnish legislation and Finnish judicial institutions have historically been efficient with respect to facilitating transparency of costs of justice. Therefore EU-legislation has not changed Finland's climate of transparency regarding costs of justice. As the level of transparency seems to be held sufficient, there is no obvious need for solutions to improve it.

1.4 Fairness of costs

In general, costs associated with civil judicial proceedings are regarded to be high. Nonetheless, many professionals regard costs associated to litigation to be justified. In principle, the winning party will be reimbursed all relevant costs in connection with litigation in Finland.

1.5 Conclusions and recommendations

As the level of transparency seems to be held sufficient, there is no immediate need for solutions to improve it.

2 Court fees

2.1 General

As the Finnish constitution provides that the general criteria governing public charges are to be laid down in an Act, the court fees are detailed in the Act and the Decree on charges levied on court and certain judicial administration officials' services (Act 701/1993, Decree 1282/2005). It is thus the Finnish Government that decides on the fees.

Court fees are normally payable after the end of the proceedings, as the stage at which the hearing of a civil dispute ends has an impact on the amount of the court fee. Some fees that relate to registration of title are payable upon filing of the application. Court fees may be paid by debit card, cash, bank transfer or postal transfer.

Information on court fees is available on both public and private websites and such information may be requested from any legal professional or any district court as well as organisations that represent certain interest groups. The information is not available through brochures or information centres. Normally such information is provided free of charge.

The amount of costs that will be charged depends on the nature of the case, i.e. whether the case is a petitionary matter (meaning one which requires no hearing, e.g., registration of title) or a regular civil matter (i.e. litigation). The second factor determining the amount of the fees in regular civil matters is the stage of proceedings during which the handling of the case ends: if the case is settled during the preliminary stages, the fee is lower than where the handling ends by the court rendering a judgment after it has conducted a main hearing. Naturally, additional fees are incurred if the judgment is appealed and an appellate court considers the matter. The same fees are applied to all civil disputes, whereas administrative matters have separate applicable fees.²

² The study included a questionnaire with detailed questions on costs of civil judicial proceedings. The questionnaire included a question on the average court fees in Finland and provided certain ranges for an average cost. Of the offered ranges, court fees in Finland fall usually into the category between EUR 50 and EUR 249.

Fees relating to civil litigation before district courts in Finland are identical, irrespective of the area of law. In all civil matters the following costs are applicable, depending on the stage at which the handling of the case ends in the court: where settlement is reached (or handling ends due to some other, exceptional reason, e.g., the court decides that the claim is manifestly ill-founded) after filing but before the preparatory hearing, the court fee equals EUR 72; if the case ends during the preparatory hearing (which normally means that the parties reach settlement during the preparatory hearing), the court fee equals EUR 102; where the case goes to a main hearing, the court fee depends on the composition of the court, i.e. the number of judges assigned to the case (under the main rule of the Code of Judicial Procedure, the court is composed of three judges, unless the matter is simple or concerns specific family law issues; see Code of Judicial Procedure, Chapter 2). Thus, where the case is heard by a panel of three judges, the fee equals EUR 164, whereas if the matter is heard by a sole judge, the fee equals EUR 133. The court fee for divorce, which under Finnish law is a petitionary matter (i.e. no main hearing is arranged), consists of fees payable in two stages, as divorce is generally granted in two stages: the fee for the application (stage 1) equals EUR 72; after the so-called reconsideration period of six months, an additional fee of EUR 44 becomes payable (stage 2) if the spouses still wish to divorce. Only where the spouses have lived separately at least two consecutive years before filing the application for divorce is the reconsideration period disregarded, and thus the fee for only the first stage is payable (Marriage Act; 234/1929, Chapter 6).

Court fees in Finland include all costs of court proceedings such as transcription costs and costs for possible notifications to the parties. The exception is the issuing of a certificate of legal force, which is necessary for enforcement of judgments in Finland and which carries a separate fee of EUR 15. The main rule is that the fees are first borne by the party initiating the proceedings. Court fees are considered necessary legal costs that are reimbursable to the winning party. Court fees are, in general, payable after the proceedings have been conducted.

However, there are some petitionary matters where fees are payable at the time of registration or application. Such petitionary civil proceedings relate mainly to the registration of title and related issues. Court costs for registration of title to property or a lease equal EUR 65 and amendments to such registration EUR 27. The fees are payable at the time of registration.

All court fees are fixed. Court fees do not reflect the disputed amount.

2.2 Cost of bringing an action to the courts

With the exception of petitionary matters, there are no filing fees applicable to civil judicial proceedings in Finland. In general, the fees of courts are decided and paid after the proceedings have ended.

In civil disputes, regardless of the matter to be handled, the district court fee is EUR 72 if the case ends before a preparatory hearing, EUR 102 if the case ends at the preparatory hearing, EUR 133 if the case ends at main hearing of one judge and EUR 164 if the case requires a main hearing with a full court quorum. The party who filed the action is liable for paying the fee; however, the fee is only payable after the end of the handling at the district court as the phase of proceedings during which the case ends influences the fee (Act 701/1993).

In cases of divorce, the court fee is EUR 72. This fee is paid by the party filing for divorce. If the spouses file together, the fee may be divided in two. In normal divorce cases, there is a reconsideration period of six months, after which the parties must renew the application. The fee at this point is EUR 44. A divorce may be granted without the reconsideration period if the spouses have not lived together for two years. In such case, only the initial fee of EUR 72 is required (Government Decree 1282/2005).

The fee for registration of title to property or a lease is EUR 65 and amending or clarifying a registration carries a fee of EUR 27 regarding property and EUR 44 regarding title to a lease. Should a dispute arise concerning lease or title to property registrations, the fees are the same as in any civil dispute. Fees relating to registration of title are payable at the time of application for registration.³

There are no specific fees for cross-border disputes charged by the courts.

³ The questionnaire of the study referred to civil status as a form of civil disputes. According to the additional information we have received, civil status is referred to in the study to concern, inter alia, court fees in connection with applications for nationality. An application for nationality carries a fee of EUR 400 and EUR 100 for a declaration of nationality, both fees payable at the time of application.

Value added tax is not applied to court fees.

2.3 Other proceedings costs

There are no other proceedings costs charged by the courts.

2.4 Costs of legal recourses (Appeals...)

The court of appeal fee is EUR 164. The amount is payable after the end of the proceedings and the party who appealed must pay the fee.

In regular civil disputes, leave to appeal to the Supreme Court is granted only exceptionally. Therefore the fee depends on whether leave to appeal is granted, i.e. whether the case will be heard by the Supreme Court. If leave to appeal is granted, the fee is EUR 204 and if not, the fee is EUR 102. As with other court proceedings the fee is payable after the proceedings. The appealing party must pay the fee.

Court fees in appeals are identical for all appeals.

2.5 Costs of ADR

There is no single source that outlines the costs of ADR.⁴ ADR proceedings are generally considered less costly than, e.g., litigation or arbitration. The Finnish Central Chamber of Commerce organizes conciliation proceedings where the fee for appointment of a conciliator is EUR 5000, but other costs are subject to the parties' agreement. ADR, in general, is still an exceptional means of dispute resolution.

⁴ We would like to remark that the term ADR has no uniformly accepted meaning in Finland. Thus, ADR may be regarded to include dispute resolution mechanisms such as mediation, conciliation, negotiation etc. As ADR is to be discussed under the heading court fees, we have primarily discussed court-annexed mediation.

Judicial mediation in civil disputes is provided by the district courts. Court-annexed mediation carries a fee of EUR 102. Parties must carry their own legal fees in connection with court-annexed mediation, i.e. costs are not reimbursed as in regular court proceedings.

2.6 Costs of legal Aid proceedings

Court fees are identical irrespective of whether any of the parties receive legal aid.

There are no limitations on the type of matters for which a party may seek legal aid; the only requirement is that the measures covered by legal aid must not be of only little importance to the party applying for legal aid. A person entitled to legal aid can claim partial or total assistance in respect to expert fees. In legal aid cases, expert fees and costs are covered by the state. There are no private legal aid organisations in Finland.

For legal aid to be granted for all types of expenses, only one decision is required. All necessary legal costs will be covered by the state in accordance with the legal aid official's decision.

2.7 Costs of fast track proceedings

There are no fast track proceedings for regular civil matters in Finnish courts. However, where a dispute concerns a debt and the party filing assumes that the matter is not disputed, it is possible to file an application for a default judgment under Chapter 5, Section 3 of the Code of Judicial Procedure carrying a court fee of EUR 72, referred to as summary proceedings in Finnish legal literature. If the opposing party disputes the amount or the grounds of the application, the matter is handled as a regular dispute (with corresponding court fees).

2.8 Costs of Group actions 'proceedings

In Finland group actions are possible only in connection with certain consumer disputes (and only the Consumer Ombudsman is entitled to file a group action claim). Court fees in connection with group action proceedings are identical to those in regular disputes.

2.9 Payment

The payment methods generally accepted are debit card, cash, bank transfer and postal money order.

2.10 E-justice

There are no regulated online court or ADR proceedings in Finland.

Ad hoc video conferences can be organized in connection with court proceedings. Video conferences are principally used for purposes of giving evidence, i.e. hearing an expert or a witness. The court fee includes the costs of the court for arranging the video conference.

E-mail is an acceptable method of communication with courts in Finland. With respect to filing a matter, the required written form is met by an electronic document delivered to the authorities. Where a signed document is required for filing a matter, an electronic signature as referred to in Section 18 of the Act on Electronic Signatures meets the requirements. An electronic document delivered to the authorities need not be signed, if the document includes the sender's information and there is no uncertainty about the originality or integrity of the document. If an electronic document delivered to the authorities includes a clarification of the authority of an agent, the agent does not have to deliver a power of attorney. However, if there is uncertainty about the agent's authority or the scope of the authority, the authorities may order the agent to deliver a separate power of attorney (Act on Electronic Services and Communication in the Public Sector, Chapter 3, Section 9).

2.11 Impact of the number of hearings on costs

In Finland the number of hearings is not limited. In civil judicial proceedings in Finnish courts, the judge assigned to the case will estimate the duration of each case and book a certain number of hearings based on the nature of the dispute, number of witnesses etc. Normally the hearings fit into the estimated period, although the estimate is not binding. Naturally, the requirements of a fair trial must be complied with irrespective of any estimates of the length of the hearings.

The number of hearings has no direct impact on court fees. However, lengthy hearings naturally affect the fees of the lawyers representing the parties, as most lawyers charge by the hour.

2.12 Transcription costs

Transcription costs are detailed in Government Decree 1282/2005 and the Ministry of Internal Affairs Decree 1065/2005. Transcriptions are normally not required for court hearings as normal copies are sufficient.

The general authority for transcriptions is the local Register Office (“*maistraatti*” in Finnish). Specific authorities, such as the district courts, may issue transcriptions of deeds they have issued.

The costs of transcription are determined on a page by page basis. The price for transcriptions of protocols or other documents held in the authorities’ files is EUR 2 per page. The maximum cost for one deed is EUR 72 and the minimum cost is EUR 6 if delivered by mail or fax. In local Register Offices authentication of any copies costs EUR 2 per page with a maximum of EUR 70 per deed. The nature of the deed does not affect the transcription costs. The costs for transcription are determined by a Government Decree. Average transcription costs are between 1 and 19 euros and are payable by the party requesting transcription. Transcription costs are not paid by the court or by legal aid organizations.

In case of a favourable decision for the party who paid the transcription fee, that party may recover these costs from the losing party, if the winning party is able to show that such costs were necessary. Transcription fees of any copy of a judgment are included in the court fee. Transcriptions that are not included in a court fee but are requested by another court in connection with a different matter are considered necessary legal costs that are compensable under Chapter 21 of the Code of Judicial Procedure.

Value added tax is not applicable to transcription costs. The methods of payment that are generally accepted are debit card, cash, bank transfer and cash on delivery at post offices if the transcription is delivered by mail. In general, transcription costs are payable at the time of ordering the transcription.

2.13 Conclusions and Recommendations

In general, it would seem that the transparency of court fees is regarded to be sufficient in Finland. Information is available from public as well as private sources. Thus, there is no immediate need for improvement.

3 Lawyers' consulting and representation fees

3.1 General

In Finland, lawyers determine their own fees. General guidelines have been prepared by the Finnish Bar Association. However, as the guidelines are very general in nature (and applicable only to the members of the Bar Association), ultimately it is the lawyers who determine their fees. There are no fee schedules for lawyers' fees.

The Commercial Code of Finland stipulates that "counsel shall receive a reasonable fee for his efforts and compensation for expenses due to judicial proceedings and other advocacy." (Chapter 18, Section 5 of the Commercial Code, 3/1734 as amended, "*Kauppakaari*").

The Finnish Bar Association is a public organisation that has established a code of conduct and grounds for fees for members of the Bar. The Code of Conduct stipulates that "[a] member of the Bar's fee shall be reasonable and in accordance with the ratified grounds for fees".

The grounds for fees of the Bar Association state that "[a] member of the Bar's fee for each mandate is determined by the amount and quality of the work required". The degree of difficulty of the mandate and the interest involved are also relevant.

According to the Legal Aid Act, disadvantaged citizens may be granted legal aid, whereby legal expenses are paid from public funds. In such cases, the lawyers' fees are determined in accordance with the Government Decree on Legal Aid Fee Criteria (389/2002).

Some professionals provide price lists on their websites and information can always be acquired by contacting a lawyer. Most practitioners will give free price estimates. Legal aid offices may also be contacted with inquiries concerning lawyers' fees as legal aid lawyers may also offer regular legal services that are not subject to the provisions on legal aid. There are no brochures or information centers providing information on lawyers' fees.

The Code of Judicial Procedure provides that “[a] member of the Bar or another person who has a Master’s degree in law may serve as an attorney or counsel unless otherwise provided in another Act. This applies to both criminal and civil proceedings.” (Section 2, Chapter 15 of the Code of Judicial Procedure, 4/1734 as amended; “*Oikeudenkäymiskaari*”) According to Chapter 15, Section 2 of the Code of Judicial Procedure, the right of a member of the bar to serve as an attorney or counsel also applies to persons who are entitled to practice law in a state with which the European Union and the Member States thereof have concluded an agreement on the mutual recognition of the professional qualifications of trial lawyers.⁵

3.2 Fees depending on the nature of the litigation

The type of work, the degree of difficulty of the assignment and the interest involved affect the amount of a lawyer’s fees, whereas the nature of the litigation has no direct effect on costs. No statistics exist that would distinguish fees by the nature of litigation. An average fee in civil litigation is usually between 91 and 400 euros per hour, the minimum being the hourly rate in legal aid cases. VAT is usually applicable at a rate of 22 per cent.

⁵ A party may always represent himself/herself in civil proceedings (or in arbitration), although in complicated cases this is often not recommendable. The general rule is that to be able to represent another in a court of law, the representative must hold a Master’s degree in law. Nonetheless, as an exception to the main rule, a parent or child of a party to proceedings in a court of law, a sibling of the party or the spouse of the party may represent the party even if he or she does not hold a Master’s degree in law. In addition, another person who has no Master’s degree in law may represent someone else in 1) summary proceedings 2) an administrative matter which is not in dispute, 3) a registration matter, or 4) a Land Court matter.

In legal aid cases, the state pays an hourly fee of EUR 91 to the legal aid lawyer. The minimum compensation for representation in a court hearing of maximum three hours is EUR 327. The hourly fee applies to the part of a hearing that exceeds three hours.

In cross-border litigations, the fee may in practice be higher than in domestic disputes due to the greater degree of difficulty of the assignment. There are, however, no general rules or practices that would result in an automatic increase in costs where the matter involves cross-border aspects. Some lawyers use higher hourly fees for work performed in a language other than Finnish. It is commonly perceived that cross-border litigation adds to costs due to the involvement of several lawyers from different jurisdictions. Further, disputes before foreign courts are sometimes perceived difficult and time-consuming.

3.3 Fees depending on the type of lawsuit or proceedings

There are no statistics on lawyers' fees based on the type of lawsuit or proceedings. Fees vary greatly and depend on a number of factors that include the type of work, the degree of difficulty, the monetary interest involved, the size and organization of the law firm as well as the expertise and experience of the lawyer in question. In practice, the fee is usually higher in commercial matters involving corporate entities than, e.g., in family law matters where the parties are individuals.

According to our knowledge, it is unusual for the same lawyer to apply different hourly rates for different types of lawsuits.

3.4 Fees depending on the value of the claim

There are no statistics providing information on lawyers' fees based on the value of the claim. It may be assumed that issues involving higher claims are more demanding and therefore result in higher fees. However, there are no statistics available.

3.5 Fees depending on the jurisdiction

There are no statistics providing information on lawyers' fees based on jurisdiction. It is likely that cases pending before foreign courts will involve higher fees, as the degree of

difficulty of the mandate may be elevated. Additional costs may also be accrued due to travel expenses etc.

However, as such, jurisdiction does not, in general, affect the hourly rates.

3.6 Legal aids cases

Lawyers' fees in legal aid cases equal EUR 91 per hour (legal aid is regulated in the Legal Aid Act 257/2002 and in Government Decrees 388/2002 and 389/2002. These regulations are also available in English, www.finlex.fi).

3.7 Contingency fees

Most lawyers seem, in general, not to use contingency fees.

3.8 Payment

Value added tax is applied to the fees of Finnish clients. Normally clients who have their residence or their place of business abroad are not charged for VAT. The most generally accepted method of payment is bank transfer.

Some lawyers invoice in regular intervals, whereas others invoice only after they have handled the assignment.

3.8.1 Retainer

The Code of Conduct and the Grounds for fees of the Finnish Bar Association entitle members of the Bar to request a retainer to cover direct costs of the assignment. A reasonable retainer may also be requested to cover fees when the client has agreed thereto at the time of acceptance of the assignment or when a retainer would be considered reasonable with regard to the overall circumstances. Such circumstances might, e.g., involve an assignment of long duration or one which involves significant financial risks.

According to our knowledge, most lawyers do not require retainers.

3.9 Conclusions and recommendations

In general, lawyers feel that it is often difficult to accurately predict the amount of work necessary in advance. However, no immediate solution to the problem of prediction presents itself. Information on the general criteria for lawyers' fees is available from public as well as private sources. Thus, there do not seem to be any immediate solutions for improvement.

4 Bailiff fees

4.1 General

Bailiff fees are regulated in the Act on Execution Fees (34/1995) and the Government Decree on Execution Fees (35/1995). Information on these fees can be easily found on public and private websites, such as <http://www.finlex.fi/fi/laki/ajantasa/1995/19950034>, or by calling a bailiff or other legal professional. Organisations representing the interests of certain groups are also likely to possess information on execution. There are to our knowledge no information centers or brochures discussing bailiff fees. Initially, bailiff fees are borne by the party requesting the bailiff's services. Usually, bailiffs are paid on a per-act basis. VAT is not applicable to bailiff fees.⁶

⁶ The study included a questionnaire with detailed questions on costs of civil judicial proceedings. The questionnaire included a question on average bailiff fees in Finland and provided certain ranges for an average fee. Of the offered ranges, bailiff fees in Finland fall usually into the category between EUR 100 and EUR 249. As regards bailiff notification, if notifications are made by a bailiff in connection with a civil judicial proceeding which has been instigated before a Finnish court, the costs of such bailiff notification are included in the normal court fee. However, where notifications are made by bailiff and such notification has no connection to proceedings in a court, there is a specific cost in the amount of EUR 27 for such notification.

4.2 Ante judgment

The use of a bailiff is not required by law. Before a court has rendered a judgment, a party may ask the court to order precautionary measures directed at real or movable property of another party to secure the debt that is the object of the dispute. Such precautionary measures may be applied for even prior to filing any actual claim.

The bailiff's fee for execution of a precautionary measure is EUR 168. The fee is initially collected from the party requesting the precautionary measure. However, if a judgment in the favour of the party having requested the precautionary measure is rendered in the underlying dispute, such costs are considered compensable costs.

There are no specific bailiff fees for cross-border litigations.

4.3 During proceedings

The use of a bailiff is not required by law. In general, a party to court proceedings may request that the court order precautionary measures directed at real or movable property of the opposing party in the amount of the debt in dispute. Such precautionary measures may be requested during the proceedings relating to the underlying claim.

The fee for execution of a precautionary measure is EUR 168. The fee is collected from the party requesting the precautionary measure.

There are no specific bailiff fees for cross-border litigations.

4.4 Post proceedings

A party that has received a favourable decision may request bailiff assistance in the execution of the decision if the losing party does not voluntarily comply with the decision (Execution Act). Under the Finnish legal system, parties to civil judicial proceedings may request assistance from bailiffs in, e.g., execution of a judgment. However, the use of a bailiff is not required by law. Usually, the losing party is approached by the bailiff to voluntarily settle the amount awarded in the judgment. Only after such negotiations have failed will the bailiff execute the judgment. Only where such approach would jeopardize

the claim of the party having been awarded the judgment will the bailiff act without first negotiating with the losing party.

Fees are collected from the debtor upon execution; the creditor will only pay a fee based on a percentage of each payment made by the bailiff when settling the account. There are no specific bailiff fees for cross-border litigation.

4.5 Legal aid cases

Bailiff fees are identical irrespective of whether any of the parties involved receive legal aid.

There are no limitations on the type of matters for which a party may seek legal aid; the only requirement is that the measures covered by legal aid must not be of only little importance to the party applying for legal aid. A person entitled to legal aid can claim partial or total assistance in respect to expert fees. In legal aid cases, expert fees and costs are covered by the state. There are no private legal aid organisations in Finland.

For legal aid to be granted for all types of expenses, only one decision is required. All necessary legal costs will be covered by the state in accordance with the legal aid official's decision.

4.6 Payment

Payment of a bailiff's fee is usually due upon execution. Fees for precautionary measures are paid by the party requesting such measure, whereas the fee for execution of a judgment is normally collected from the debtor upon execution. Value added tax is not applied to these fees. The accepted payment methods are debit card, cash and bank transfer.

4.6.1 Retainer

As such, bailiffs do not request retainers. However, the execution fee referred to in the 'ante judgement' and 'during proceedings' sections may fall due prior to the

commencement of execution if the bailiff so decides. No specific regulation exists with respect to cross-border disputes.

4.7 Conclusions and recommendations

In general, it would seem that the transparency of bailiff fees is regarded to be sufficient in Finland. Information is available from public and private sources. Thus, there does not seem to be any immediate need for improvement.

5 Expert fees

5.1 General

Expert witnesses as defined in the Finnish Code of Judicial Proceedings are specialists called by the court to give an expert opinion on a specific issue. According to Chapter 17, Section 44 of the Code of Judicial Procedure, the court may call as an expert a civil servant or a person knowledgeable in a specific field. No specific requirements with respect to experts exist. Thus, anybody deemed knowledgeable in a certain field may be called by the court as an expert. The matter is fully under the discretion of the court. In practice, experts are called very seldom and have little impact on fees. In child care matters, civil servants working for certain public child care organizations are sometimes called as experts. However, as they are state officials, they do not receive fees for giving testimony. Thus, fees of experts are of limited relevance in Finland.

If, in the consideration of an issue which must be resolved with the assistance of special professional knowledge, it is deemed necessary to use an expert, the court shall obtain a statement from an expert or hear an expert.

Information on fees may only be acquired by contacting such an expert. There is no compiled information available as to who has acted as an expert.

In Finland there is no government system for the accreditation of experts. An expert is any person deemed knowledgeable and competent by the court in his/her field.

5.2 Fees (medical experts, technical transports experts.....)

Experts are entitled to a reasonable fee for their work and time, as well as compensation for their necessary expenses, if they are not state authorities or public office holders. These fees may vary in different types of litigations, but the nature of the litigation as such does not determine the fee. If expert opinion has been given by an authority or the holder of a public office or by a person who has been appointed to give statements in the field in question, compensation or a fee shall be paid only if specifically so provided.

The basis for expert fees depends entirely on the expert: daily fee, hourly fee, fees per act, or flat fees may all be applied.

5.3 Payment

There is no regulation which determines the payment of experts. Value added tax is normally applied to such fees. The generally accepted method of payment is bank transfer.

5.3.1 Retainer

We are not aware of experts requesting retainers from the courts appointing them.

5.4 Legal aid cases

There are no limitations on the type of matters for which a party may seek legal aid; the only requirement is that the measures covered by legal aid must not be of only little importance to the party applying for legal aid. A person entitled to legal aid can claim partial or total assistance in respect to expert fees. In legal aid cases, expert fees and costs are covered by the state. There are no private legal aid organisations in Finland.

For legal aid to be granted for all types of expenses, only one decision is required. All necessary legal costs will be covered by the state in accordance with the legal aid official's decision.

5.5 Reimbursement of experts' fees

Expert fees and costs are not separated from the legal costs that the losing party may be ordered to pay. They are compensable under Chapter 21 of the Code of Judicial Procedure.

5.6 Practical questions ?

An expert as defined in the Code of Judicial Proceedings is appointed by the court. If a party wishes to refer to the opinion of an expert who has not been appointed by the court, that expert will be treated as a regular witness. There are no expert accreditation procedures.

An expert report is required when the court so decides. Such cases might be, e.g., complicated custody cases, cases involving complex technical details, disputes relating to an industry-specific issue, etc.

An expert report produced in another EU state is accepted in Finland, either as an expert statement if the court has requested such statement or as a regular witness statement. The court may appoint anyone who is known to be an honest and competent expert in the field. There is no regulation on the duration of validity of an expert statement; it is thus up to the court to decide whether circumstances have changed since the statement was written so as to affect the significance of the statement.

5.7 Conclusions and recommendations

Because experts as referred to in the Finnish Code of Judicial Procedure are used only very rarely, and even if used, do normally not receive any compensation for their expert opinion (as this is normally considered part of their work as civil servants), information on expert fees is very limited. However, as the use of experts is very rare and their fees are negligible in comparison to total costs in civil proceedings, this does not cause any significant lack in transparency of costs.

6 Translation and interpretation fees

6.1 General

Information on translators and interpreters as well as their fees is widely available on private websites of companies providing such services, as well as by calling any translator or interpreter. There are no information centers or brochures with information on fees of translators or interpreters. Usually, courts will not be able to estimate the costs of interpretation or translation, although most judges will have information on the general level of costs for such services. The Finnish Association of Translators and Interpreters may be contacted for general information on translation or interpretation fees. Said organization will also provide a list of accredited translators upon request. There is no institution of accredited interpreters in Finland. Any interpreter may thus act before the courts.

6.2 Translation fees

There are no specific legal regulations concerning translation fees. The general rule is that translators are entitled to reasonable compensation for their work, time and costs. Prices are thus determined by the translators themselves and by the market. The Finnish Association of Translators and Interpreters may give recommendations on fees.

Documents brought to court do not generally require translation by an accredited translator. An official translation, however, enjoys the benefit of being considered legally valid unless proven otherwise (Act on Official Translators, Section 5). Any translator, accredited or not, may translate documents to be used in court.

The language pair of the translation has some effect on the prices due to the higher availability of translators of certain language pairs over others. The type of text has more impact on the fees chargeable, i.e., whether the text is very technical or very difficult to translate.

The method of determining translation fees varies from translator to translator. Commonly used methods are determination by page, by word, by contract and by line (60 characters).

Page price before taxes is on average more than 40 euros and price per word is approximately EUR 0,2. VAT is applicable to these fees at a rate of 22 per cent. VAT is, in general, not invoiced from persons domiciled outside of Finland. Cash, bank transfers and credit and debit card are widely accepted.

Finland has two official languages, Finnish and Swedish. The Language Act provides for free interpretation or translation into Finnish or Swedish for parties of a court case whose native language is the official language other than the language of the proceedings. If the language of the proceedings is other than that party's native language, the court must provide a native Finnish or Swedish speaking party with an accredited translation into Finnish or Swedish. Otherwise, accredited translations are not required by law in court proceedings. The Nordic Language Convention extends the same rights to nationals of all Nordic Countries who appear before the authorities of another Nordic country.

There is no specific accreditation procedure for translators in connection with litigation. Similarly, the nature of litigation has no direct impact on the fee of translators.

Upon application, the Translators Examination Board of Finland (functioning under the auspices of the Ministry of Education) will accredit translators who have taken the translator degree (Act on Official Translators, Sections 1 and 3). The exam consists of two translation assignments, one of which tests the general language knowledge and the other knowledge on a specific topic chosen from a variety of topic options available at the exam (Decree on Official Translators, Section 6).

In legal aid cases, translation costs (fees and costs) may be covered by the state.

Under the Code of Judicial Procedure (OK 4:2.2), the Court has discretion to order translation or interpretation services that will be covered by the state where the nature of the matter so requires. Legal literature often cites family law disputes as an example of situations where the nature of the matter might require translation and/or interpretation.

If the court provides for translation, it is free of charge. In other cases the party requesting translation must carry the costs, which the losing party may later be ordered to pay.

A translation produced in another country will be accepted by Finnish courts, subject to the doctrine of free evaluation of evidence. There are no time limits for the time of validity of translations under Finnish law.

As there are no specific provisions on validity of translations, Finnish courts will accept any translation, unless there are special reasons to doubt the accuracy of the translation. Thus, it is possible for clients to translate documents themselves as well as produce translations from photocopies of the original document.

6.3 Interpretation fees

There are no specific legal regulations concerning interpretation fees. The general rule is that interpreters are entitled to reasonable compensation for their work and time and costs. Prices are determined by interpreters themselves and by the market. As stated above, there is no accreditation procedure for interpreters.

Language pairs have some impact on prices in the sense that language pairs with higher availability of interpreters may be less costly than language pairs with only few professionals available. The nature of interpretation has more impact on the fees, i.e., whether consecutive or simultaneous interpreting is involved, the nature of the issues to be interpreted, the duration of the assignment, etc. The nature of the litigation per se has no impact on the price.

Interpreter fees are fully negotiable, and hourly fees seem to be most common, but also daily, half-day and flat-fees are used.⁷

Normally the party requesting interpretation pays the interpretation fees. However, the Language Act provides for free interpretation or translation into Finnish or Swedish for parties whose native language is an official language other than the language of the proceedings. The Nordic Language Convention extends the same rights to nationals of all Nordic Countries appearing before the authorities of another Nordic country.

⁷ The study included a questionnaire with detailed questions on costs of civil judicial proceedings. The questionnaire included a question on the average costs of interpretation and provided certain ranges for an average cost. Of the offered ranges, interpretation costs in Finland usually fall into the category between EUR 500 and EUR 749 for a day of court interpreting.

Under the Code of Judicial Procedure (Chapter 4, Section 2.2), the Court has discretion to order translation or interpretation services that will be covered by the state where the nature of the matter so requires. Legal literature often cites family law disputes as an example of such situations.

6.4 Payment

There is no regulation which determines the payment of interpreters and translators. Value added tax is normally applied to such fees. Cash, bank transfers and credit and debit card are widely accepted.

6.4.1 Retainer

Requesting a retainer is entirely subject to agreement between a party and the interpreter. There is no regulation prohibiting such an arrangement. Requesting a retainer is, however, quite rare.

6.5 Practical questions ?

In order to become an accredited translator, one must hold a Translator Degree organised by the Translators Examination Board of Finland (TEB) which functions under the supervision of the Ministry of Education. Upon application, the TEB will accredit translators who have taken the translator degree of the TEB (Act on Official Translators, Sections 1 and 3).

The translator exam consist of two translation tasks, one of which tests the general language knowledge and the other knowledge on a specific topic chosen from a variety of topic options available at the exam (Decree on Official Translators, Section 6).

Certified translations are considered legally valid unless proven otherwise (Act on Official Translators Section 5). In practice, certified translations carry a certificate of authenticity and information on the accredited translator who produced the translation. For a certified translation, the original (or a certified copy of it) must to be shown to the translator.

The translation conditions, such as the timeframe, are fully negotiable among the parties involved, i.e. the translator and his/her client.

There is no regulation on how long a translation is valid. Therefore, as long as the original text remains the same, courts will likely accept translations that have been made a long time before the proceedings.

There is no accreditation procedure for interpreters. Any interpreter may act before Finnish courts.

Practical case:

I already have a document translated by an accredited translator. I need this translation again but only have a photocopy of it. Can I use this photocopy or do I need it to be certified by a civil/legal authority? Or do I need to have the document translated again by an accredited translator?

There is no exact provision covering this situation. Normally a copy of the translation would be sufficient for the court. If for some specific purpose an official (certified) translation were required, the copy would need to be checked by an accredited translator who would compare it with the original and could confirm it as a certified copy.

A client may do the translation his/herself and have it certified by an accredited translator. However, as the translator certifying the translation will be responsible for the validity of the translation, he/she will review it as carefully as when translating it.

Under the doctrine of free evaluation of evidence, a court may always assess the credibility of a translation, irrespective of whether it is certified.

6.6 Legal aid cases

Legal aid may also cover translation and interpretation costs, as legal aid covers all legal costs necessary for the handling of the matter for which legal aid has been granted.

6.7 Reimbursement

Under Chapter 21 of the Code of Judicial Procedure, translation and interpretation fees and costs that are deemed necessary legal costs are compensable for the winning party.

6.8 Conclusion and recommendations

In general, information on fees of translators and interpreters is considered to be sufficiently available, as most translators and interpreters will give free estimates of their fees. Thus, there is no immediate need for improvement of transparency.

7 Witness Compensation

7.1 General

General information on witness compensation is widely available on public websites; e.g. a brochure by the Ministry of Justice on witness compensation can be found online. The best source of information would presumably be the lawyer of the party asking the witness to testify. Further, one can call any court as well as any practising lawyer to ask questions relating to witness compensation. Some organisations may also have information on witness compensation. However, there is no national organisation to contact to obtain information on the compensation of witnesses.

The regulations relating to witness compensation are found in State Compensation for Witness Act (Act 666/1972, Decree 813/1972) the Legal Aid Act (257/2002) and the Code of Judicial Procedure (4/1734). However, none of these sources contain detailed provisions on the amount of witness compensation.

7.2 Fees

Witness compensation normally consists of compensation for time, financial losses (i.e. lost wages) and direct costs such as travelling, accommodation costs, costs for child care etc.

The amount of the compensation is determined by several factors: The government sets the upper limit for compensation paid when legal aid is granted; the court determines the final amount of compensation if there is a disagreement regarding the amount of the compensation between the witness and the party who has called him. The most common case is that there is an agreement between the witness and the party calling the witness. No schedule of witness fees exists. If the witness gives testimony on a subject that is his area of expertise, and the witness must prepare a report or do research for his testimony (comparable to expert witnesses as discussed above in section 5), the level of compensation can be substantial. There are, however, no statistics available on witness compensation. As compensation is fully subject to agreement, the level of compensation can vary significantly.

In legal aid cases, fees are determined on a half day basis. In other cases the compensation and the grounds for determination are subject to agreement between the parties.

When legal aid is granted to a party, witness compensation costs are borne by the state in accordance with the regular legal aid process.

Where the winning party has compensated witnesses it has called, the losing party may be ordered to compensate the winning party for such costs.⁸

⁸ According to the main rule, no written witness statements are allowed. If, exceptionally, a written witness statement would be accepted by a court, a translation thereof may be necessary in cases where such statement is not composed in a language the court understands. In practice, documents in English are often accepted by courts. In cross-border litigations, witness statements are collected in other countries in accordance with the Council Regulation EC/1206/2007. The court makes an interlocutory judgment regarding the collection of the witness statement in a foreign country and sends a request to the officials of the relevant countries in accordance with the Council Regulation. The direct taking of evidence by the requesting court requires permission by the Ministry of Foreign Affairs. When a request is sent to a country that is not party to any relevant convention with Finland, the request is submitted through the Ministry of Foreign Affairs.

7.3 Legal aids cases

Witness compensation is, in civil matters, negotiable between the witness and the party calling the witness. Witness compensation does not depend on the fact whether any of the parties involved receives legal aid. Legal aid covers, inter alia, the costs of compensating witnesses.

7.4 Payment

The accepted method of payment of witness compensation is normally bank transfer. VAT applicability depends on the witness to be heard. The main rule is that VAT is not applied to individuals and that VAT is applied to witnesses who are “professional experts. If VAT is applied, the rate is 22 per cent.

7.5 Practical questions ?

Each witness either takes the oath of a witness or gives the affirmation of a witness (Code of Judicial Procedure, Chapter 17, Section 29). If a witness conceals a pertinent circumstance without lawful cause or makes a false statement before a court of law under oath or affirmation, he/she may be sentenced to imprisonment for up to three years. This also applies when a person is heard in the main hearing by video conference, telephone or another technical means of communication (The Finnish Penal Code, Chapter 15, Section 1).

Anyone but a party to the case may be heard as a witness, provided that the eventual judgment will not be to his/her benefit or detriment as if he/she were a party. If the person called as a witness is under fifteen years of age or mentally ill, the court will consider whether he/she may be heard as a witness. The President of the Finnish Republic cannot be called as a witness.

There is no authentication procedure for witnesses. Once the witness has been called in, the witness is asked to identify him/herself and the witness is asked to make known such facts that, under law, might prevent the taking of the oath as a witness or that would entitle or oblige the witness to refuse to testify, or which might affect the credibility of the witness (in general, such facts normally relate to consanguinity); all this is marked in

the record. Before the witness testimony, the presiding judge reminds the witness of the duty to be truthful and, if an oath or affirmation has been administered, of its importance (Code of Judicial Procedure, Chapter 17, Sections 28 and 31).

Testimony, in general, shall be oral and the witness should not refer to a written statement. However, the witness may use written notes as memory aids. A statement that the witness has previously given to the authorities can be read out in connection with the hearing of the witness only if the witness changes his/her testimony from such earlier statement (usually a pre-trial investigation conducted by the police) or when the witness explains in the hearing that he/she can not or will not testify in the case. A private written statement is not admitted as evidence unless otherwise exceptionally provided in the Code of Judicial Procedure (Code of Judicial Procedure, Chapter 17, Sections 11 and 32).

A court of first instance may collect testimony in advance for a case that is not yet pending (Code of Judicial Procedure, Chapter 17, Section 10). If evidence is received outside of a main hearing or if no main hearing is held, the evidence may also be admitted in another court of first instance in Finland or in a foreign country.

Written witness statements are accepted only under very exceptional circumstances. If written witness statements are accepted by the court, translation of written witness statements may be necessary in cases where the statements are not in Finnish, Swedish or another language the court is able to understand. In practice, written witness statements would often be accepted by courts in English.

Where a party asks to be allowed to hear a witness in another country, the court makes an interlocutory judgment regarding the taking of the witness statement in a foreign country and sends a request according to Council Regulation EC/1206/2001 where necessary. The direct taking of evidence by the requesting court requires permission from the Ministry for Foreign Affairs. When a request is sent to a country that has not acceded to any conventions with Finland, diplomatic channels are used, i.e. the request is submitted through the Ministry of Foreign Affairs.

The losing party is liable for all reasonable legal costs including reasonable witness costs incurred by the necessary measures of the opposing party (Code of Judicial Procedure, Chapter 21, Section 1).

7.6 Conclusions and recommendations

In general, it is held that there is sufficient information available on witness compensation. However, it is fair to say that compensation paid to witnesses varies significantly from case to case.

8 Pledges and security deposits

8.1 General

Under Finnish law, pledges and security deposits are relevant only in connection with precautionary measures. Where a party applies for a precautionary measure, such party may be requested by the bailiff handling the application to provide security for potential damage to the party against whom such precautionary measure is directed. Forms of security that are usually accepted include pledges and security deposits.

Provisions on precautionary measures may be found in Chapter 7 of the Finnish Code of Judicial Procedure. Under Chapter 7, Section 1 of the Code of Judicial Procedure, the court may order the attachment of property of the opposing party in the amount of the debt, if the petitioner can establish a probability that he/she holds a debt that may be rendered payable by a court or similar decision, and that a danger exists that the opposing party will hide, destroy or convey such property or take other action endangering the payment of the debt.

Under Chapter 7, Section 2 of the Code of Judicial Procedure, an object or other property in the possession of the opposing party may also be attached when the petitioner can establish a probability that he/she has a prior right to the object or property in question, which right is enforceable by a court or similar decision and that a danger exists that the opposing party will take action detrimental to the right of the petitioner.

Under Chapter 7, Section 3 of the Code of Judicial Procedure, if the petitioner can establish a probability that he/she has a right not referred to in Sections 1 or 2, which right is enforceable against the opposing party by a decision and that a danger exists that the opposing party by deed, action or negligence or in some other manner will hinder or

undermine the realization of the petitioner's right or significantly/fundamentally decrease its value or significance, the court may order the property of the opposing party to be placed under the administration and care of a trustee or order other measures necessary for securing the right of the petitioner.

Such precautionary measures may not be enforced by the bailiff unless the party applying for the measure has lodged sufficient security to cover the potential damage that may occur to the party whose property is attached. Determination of the amount is under the discretion of the bailiff. The court rendering the decision to grant an precautionary measure may include specific instructions with respect to security in its decision.

Under Finnish procedural rules, no discrimination against foreign parties is allowed. A pledge is not automatically or otherwise required from any party to judicial proceedings before a court of law in Finland, regardless of the national origin of that party.

There are no situations where a security deposit would be mandatory. Only upon application for a precautionary measure must the applicant for the precautionary measure provide security for potential damage that may be caused to the opposing party by such precautionary measure, unless the court, upon application, has released the applicant from providing security (Chapter 7, Section 7 of the Code of Judicial Proceedings).

Security deposits are not covered by legal aid.

Interest accruing on security (if the security is deposited in a credit institution) is considered to be owned by the party to whom the security is transferred after proceedings relating to the underlying claim have ended.

8.2 Fees

There are no separate fees for the actions taken by the bailiff in connection with provision of security. Rather, such costs are included in the general fee of the bailiff for the precautionary measure. The enforcement of a precautionary measure carries a fee of EUR 168. Value added tax is not applied to this cost.

In addition, depending on the form of security, there may be additional costs charged by the credit institution arranging the security. Banking fees and alike are negotiable between the provider of the security and its client.

8.3 Payment

The accepted method of payment is bank transfer.

8.4 Practical questions?

An application for a precautionary measure must include the specific request of the applicant, the written evidence upon which the applicant will rely and also the names and addresses of the parties. However, the following information may also be requested: the circumstances on which the request is based; evidence upon which the applicant will rely that is not referenced in the application; a request for compensation of possible subsequent trial costs; the facts upon which the jurisdiction of the court is based. The application must be signed by the applicant or by the drafter of the application, in which case the occupation and the place of residence of the drafter must also be included in the application. The district court generally renders its decisions on such applications in writing. An application may also be decided orally during a court hearing, if the parties, a witness or some other persons are heard individually. An oral hearing may also be held by request of a party or if the court considers it necessary.

Under Chapter 7, Section 4 of the Code of Judicial Procedure, the decision to undertake precautionary measures is made, upon request, by a district court. The issue of precautionary measures is heard by the court where the proceedings relating to the underlying claim or the right of the petitioner are pending. If hearings of the underlying dispute have concluded and the time for appeal or response has not yet expired, the issue of the precautionary measures is heard by the court that last heard the main issue. If no proceedings are pending, the competent court is determined according to the general rules on jurisdiction found in Chapter 10 of the Code of Judicial Procedure. Where the general rules on jurisdiction do not establish jurisdiction for any district court, the decision to order precautionary measures is made by the district court where the opposing party resides, where the property in question, or a considerable part thereof, is located or where the purpose of the precautionary measure can otherwise be realized.

Under Chapter 7, Section 5 of the Code of Judicial Procedure, the application for precautionary measures must be submitted in writing. If the precautionary measure relates to a dispute being heard by a district court, an application for a precautionary measure may be submitted orally during the hearing of the main issue. The application will usually not be granted without affording the opposing party an opportunity to be heard. However, if the purpose of the precautionary measure may otherwise be compromised, the court may upon request of the applicant grant an order for precautionary measures without giving the opposing party an opportunity to be heard.

Under Chapter 7, Section 6 of the Code of Judicial Procedure, when the application referred to in Section 5 has been granted, the applicant must instigate proceedings on the main issue before a court or bring the main issue for consideration in other proceedings that may result in an enforceable decision within one month of the granting of the precautionary measure. As an exception to the main rule, when the precautionary measure is directed at real property to secure the payment of a debt that is not yet due, for which the real property is collateral, the one month period begins on the due date of the debt. If proceedings relating to the underlying claim are not instigated within said period, or if the case is discontinued, the precautionary measure must be cancelled by the bailiff handling the execution of the precautionary measure. If an arbitral award has, due to no fault of the applicant, not been rendered or if the award is void or it is annulled, action must be brought before the court, under threat of canceling the precautionary measure, within one month of receipt of notice of the impediment in the arbitration proceedings or the official voiding of the arbitration award or, when the award has been annulled, from the date when the annulment order has become final. When granting an application for precautionary measures, the court notifies the applicant of how he/she has to act so as to prevent the granted precautionary measure being cancelled.

Under Chapter 7, Sections 10 and 11 of the Code of Judicial Procedure, the expenses incurred in enforcing precautionary measure are primarily covered by the applicant. The issue of the final liability for expenses incurred by the application and enforcement of the precautionary measure is decided, upon request of a party, in the judgment concerning the underlying dispute.

Under the Execution Act, security deposits may be deposited in a credit institution upon request of the parties. The accrued interest is paid to the party entitled to the security deposit.

8.5 Conclusions and recommendations

As pledges and security deposits are relevant in connection with civil proceedings in only very limited circumstances (i.e. in connection with precautionary measures) and are never mandatory, there does not seem to be any immediate need for improvement.

9 Court decisions

9.1 Cost of notification

The cost of notification of court decisions is included in the court fee paid for the handling of the case. Only notification to the parties is provided by law. In general, court decisions are public. Thus, anyone may ask for a copy of a decision. Costs for obtaining a copy of a decision by a court are, in general, EUR 0,5 per page plus possible mailing costs. If notification that is not connected with proceedings pending before a court is requested from bailiffs, such special notification carries a fee of EUR 27.

The law does not provide for publication of decisions in civil disputes. Bankruptcy decisions and bans on engaging in business operations are published, but not decisions in civil disputes within the meaning of this study.

9.2 Cost of obtaining an authenticated decision

The parties will each receive an authenticated copy of the decision. If a party requests additional authenticated copies of a judgment, such copies carry a fee of EUR 2 per page in addition to mailing expenses of EUR 6.

A certificate of legal force may be requested after the period for appeal has expired. Certificates of legal force are required in connection with the execution of decisions. The fee for such certificate is EUR 15.

Judgments need not be translated, in general. Where enforcement of a foreign judgment is sought, the judgment in question must be translated only if so requested by the court.

9.3 Conclusions and recommendations

There does not seem to be any obvious lack of transparency regarding costs of court decisions. Information is widely available on the internet and by calling the courts. There does not seem to be any immediate need for improvement.

10 Civil Legal aid

10.1 General

Public legal aid is regulated in the Legal Aid Act 257/2002 and in Government Decrees 388/2002 and 389/2002. These regulations are also available in English (e.g. www.finlex.fi).

Information on legal aid is widely available on both public and private websites. The Ministry of Justice publishes a brochure “Information on Legal Aid” in four different languages and the brochure is available both online and in paper form. Information can also be acquired by calling the legal aid offices or the Legal Aid helpline which functions under the auspices of the Ministry of Justice. Many practitioners also handle legal aid cases and are thus well prepared to answer inquiries. Organizations supervising the interests of certain groups are also likely to be able to provide basic information on legal aid.

In Finland legal aid covers all types of legal matters. Legal aid will not be granted if the matter is of only limited importance for the applicant, if legal aid would be clearly pointless or if the pursuit of the matter would constitute an abuse of process.

10.2 Conditions of grant

Legal aid is granted on the basis of the applicant's income, expenditures, savings and support obligations. The legal aid office handling the request for legal aid calculates the applicant's available monthly means. An application form is to be completed and returned to a public legal aid office that will then make a decision on granting legal aid.

Income consists of wages, pension and per diem allowances, as well as support payments and capital income. The income of the applicant's spouse, common law spouse or registered partner is taken into account, unless that person is the opposing party in the case at hand.

Taxes shall be deducted from the applicant's gross monthly income for the purpose of calculating the applicant's income. Deductions shall likewise be made for housing costs, day-care fees, child and spousal support payments and the scheduled payments included in enforcement or debt adjustment proceedings. However, the deduction of such sums shall only be made if their total amount exceeds EUR 250. In addition, a deduction of EUR 250 shall be made for each child under the age of 18.

Based on the calculation of the applicant's available means, legal aid is either granted or denied. Where legal aid is granted, the amount of the applicant's available means is reflected in the extent of legal aid granted. For each applicant entitled to legal aid, a so-called deductible is calculated. The deductible is the percentage of the overall costs which must be carried by the applicant.

Where the available monthly means of a single person are below EUR 650 (aggregate of EUR 1100 for two spouses), the deductible is 0 per cent, i.e. all costs associated with the proceedings for which legal aid is granted are covered by legal aid. Where the available monthly means do not exceed EUR 850 (aggregate of EUR 1300 for two spouses), the deductible is 20 per cent; a deductible of 30 per cent is applied to available monthly means of up to EUR 1000 (aggregate of EUR 1600 for two spouses); a deductible of 40 per cent is applied to available monthly means of up to EUR 1200 (aggregate of EUR 2000 for two spouses); a deductible of 55 per cent is applied to available monthly means of up to EUR 1300 (aggregate of EUR 2200 for two spouses); and a deductible of 75 per cent is applied to available monthly means up to EUR 1400 (aggregate of EUR 2400 for two spouses). Where the applicant has available monthly means in excess of EUR 1400 (or EUR

2400 for two spouses), legal aid is not granted. Additionally, a legal aid charge in the amount of EUR 35 is collected from all applicants except those, whose available monthly means do not exceed EUR 650 (or EUR 1100 for two spouses).

Legal aid is not granted if the person has legal expenses insurance that covers the matter in question. Such insurance coverage may be included e.g. in a household insurance policy, a labour union policy or a farming policy. However, legal aid may be granted to cover the deductible of legal expenses insurance, provided that the applicant's income and assets are such that he or she would qualify for free legal aid, i.e. that his/her income is such that legal aid would be granted in full.

Legal aid is not granted to companies or corporations. A private person pursuing a business may be granted legal aid for a court case pertaining to the business; for other matters pertaining to a business, legal aid can be granted only for special reasons.

In matters pending abroad, legal aid covers the provision of legal advice on the same conditions as domestic cases. The legal aid is, however, limited to legal advice; for instance, no court fees are covered.

There are factors facilitating access to legal aid by persons from other states. There are, e.g., translations of necessary forms into English and the regulations and Ministry of Justice brochures are published in several languages.

In general, legal aid offices decide on granting legal aid. If an application for legal aid is rejected, the legal aid office will provide appeal instructions to the applicant. A rejected application may be submitted to a court for a hearing. The applicant should deliver the submission to the legal aid office, which can also itself rectify the decision. If the legal aid office holds that there is no reason for rectification, it will forward the matter to the competent court, which will then decide on the matter.

In civil cases, the party seeking legal aid must always apply for it as there is no automatic right to legal aid.

10.3 Strings attached ?

Legal aid that has been granted to an applicant may be withdrawn if there are material changes in the applicant's economic circumstances that led to granting legal aid. Such decision is made by the legal aid office that initially granted the legal aid.

Legal aid may be withdrawn in specific circumstances. If the criteria for legal aid have not in fact been met, or if the circumstances have changed or ceased to exist, the legal aid office may amend its decision or decide to cease legal aid. The court handling the main matter may always, on the above criteria, amend the legal aid decision or order legal aid to cease. When the legal aid recipient's deductible is amended, a decision shall be made as to whether the amendment shall apply retroactively. When the cessation of legal aid is decided, a decision shall be made as to whether the recipient shall compensate the state for legal aid already granted, and the amount of the compensation shall be determined.

10.4 Practical questions

The granting of legal aid shall release the recipient from liability for the enforcement charge pertaining to the judgement or the court order and by the expenses payable in advance. All necessary enforcement costs shall be covered by state funds if they cannot be collected from the opposing party (Legal Aid Act, Section 4.4).

Legal aid may also cover issues decided by means of alternative dispute resolution methods.

In a given matter, legal aid shall cover lawyers' fees that are necessary in view of the nature and scope of the matter, the interest in dispute and the circumstances as a whole. Legal aid may be limited so as to cover only specific actions determined by the legal aid office in advance. If such decision is made, the scope of actions that fall under legal aid may be extended later, if necessary (Legal Aid Act, Section 5.1).

Legal aid is granted for the duration of the case, not for a single court procedure. Legal aid shall be in effect at all levels of the court hierarchy. Legal aid shall cover lawyers' fees billed on an hourly basis up to one hundred hours. However, the court handling the matter may decide that legal aid shall continue if there are special reasons for the same in view of the person's need for access to justice and the nature and extent of the case. In this event, the court shall set a maximum for the billable hours of the lawyer (Legal Aid Act, Section 5.2).

Legal aid may be withdrawn in specific circumstances. If the criteria for legal aid have not in fact been met, or if the circumstances have changed or ceased to exist, the legal aid office may amend its decision or decide to cease legal aid. The court handling the main matter may always, on the above criteria, amend the legal aid decision or order legal aid to cease. When the legal aid recipient's deductible is amended, a decision shall be made as to whether the amendment shall apply retroactively. When the cessation of legal aid is decided, a decision shall be made as to whether the recipient shall compensate the state for legal aid already granted, and the amount of the compensation shall be determined.

The granting of legal aid shall release the recipient from liability for:

- (1) fees and reimbursements for a lawyer appointed or approved under the Legal Aid Act;
- (2) fees and reimbursements of the interpretation and translation services required in the matter; and
- (3) handling charges, document charges and the reimbursement of miscellaneous expenses in the authority handling the main matter; said charges shall likewise not be collected by other authorities.

Compensation for witnesses called by a party receiving legal aid shall be paid by state funds. Other costs of evidence submitted by a party receiving legal aid shall be paid from state funds if the evidence was necessary for the resolution of the matter.

If a party receiving legal aid has been summoned to the court in person in order to resolve the matter, the compensation for the costs of coming to court shall be paid from state funds.

Moreover, the granting of legal aid shall release the recipient from liability for the enforcement charge pertaining to the judgment or the court order and from the expenses payable in advance. All necessary costs of enforcement shall be covered by state funds, if they cannot be collected from the opposing party.

Based on the applicant's income, the decision on legal aid shall include the proportional amount of legal costs that is to be covered by legal aid. Thus, the decision shall specify if legal aid is granted in full, or if, e.g., legal aid shall only cover 50 percent of all legal expenses. An applicant may have to carry up to 75 percent of his legal costs. Should the income of the applicant be such as to create liability for more than 75 percent of costs for the applicant, legal aid will not be granted at all.

If the party opposing the recipient of legal aid is liable to compensate in full or in part the recipient's legal costs (under Chapter 21 of the Code of Judicial Procedure), that party shall on the same grounds be ordered to compensate the state for the expenses paid from state funds on the basis of the Legal Aid Act and for the estimated fee of the public legal aid lawyer. Such amounts shall bear overdue interest at the rate prescribed in Section 4 of the Interest Act (presently 11.5 per cent p. a.) as of one month from the date when the relevant court order was available to the liable party.

10.5 Conclusions and recommendations

There does not seem to be any obvious lack of transparency regarding the costs of legal aid. Information is widely available on the internet and by calling legal aid offices. Thus, there does not seem to be any immediate need for improvement.

11 Personal experience

I have not been confronted with cross-border issues where the costs of justice were too expensive for my clients. Similarly, I have not been confronted with a situation in which I would not have been able to evaluate the costs of justice in connection with cross-border issues where the court was located in another Member State. I have not tried to obtain legal aid for my client from a Member State in which my client was not a national.

I have been involved in cross-border trials requiring co-operation with lawyers residing in a different state than Finland. My experience relates in general to commercial and in particular to patent litigation. Particulars of co-operation follow the agreement with the client. In general, this adds to costs. The amount varies from case to case, but could be estimated to be between 10 to 30 per cent of total costs. If the co-operation is well-organized, as it often is in cases between enterprises, there is not very much overlap. As regards deterrents to seeking justice in cross-border disputes, I would assume that lawyer's fees are the main deterrent because these fees form the largest part of total costs.

12 Case studies

12.1 Case study 1

Case Study number 1 concerns divorce excluding the division of matrimonial property. The case study concerns both a national and a transnational divorce.

Divorce is in Finland a petitionary matter. Thus, no hearings or other proceedings are held. Decisions on divorce applications are rendered by district courts in an administrative procedure.

Either spouse may apply for a divorce. The court fee for divorce is EUR 72. The fee is payable by the party filing for the divorce. If the parties apply jointly, the fee may be divided in two. Unless the spouses have already lived separately for a minimum of two years, the divorce will not be granted before the expiry of a six (6) month reconsideration period (unless there was a legal obstacle for the marriage in the first place, such as a prior marriage still in force). After this period, a fee of EUR 44 is payable in order to finalize the divorce. If the spouses had been separated for over two years at the time of applying for the divorce, divorce may be granted upon filing. Legal representation is not necessary, and no hearings are arranged. Because there are no significant costs to be incurred, and no winning and losing party, costs cannot be ordered to be reimbursed.

Full or partial legal aid may be granted for an applicant whose available means are below the limits described in section 10 concerning legal aid. If the financial situation of the applicant changes during the proceedings, the legal aid office may amend its decision retroactively. Translation and interpretation are not necessary as the matter will be decided strictly on the basis of the application.

What has been stated with respect to case A applies similarly for case B, which concerns divorce in a transnational context. There are no distinct features of transnational elements to divorce if jurisdiction lies with a Finnish court.

12.2 Case Study 2

Case Study number 2 concerns a dispute regarding the custody of children excluding alimony questions. The case study refers to a situation where two persons have lived together for a number of years and have a three year old child when they separate. A court decision grants custody of the child to the mother and a right of access to the father. The mother sues to limit the father's right to access. The same situation is also to be considered in a transnational context.

Child custody cases in Finland are often decided in connection with divorce proceedings. The court fees for such proceedings depend on the stage at which the hearing concludes. Custody cases in a main hearing are heard by a panel of one judge and three lay members of the court. The court fee for such proceedings is EUR 133. Normal transcription fees are included in the court fee. In case of appeal, the fee for the Court of Appeal is EUR 164 and for the Supreme Court EUR 204 if leave to appeal is granted, and EUR 102 if leave to appeal is not granted. Custody cases may be taken to court-annexed judicial mediation. The fee for such proceedings is EUR 102.

In complicated custody cases, legal representation is recommended but not compulsory. In more simple cases, the municipal social welfare board may assist in reaching a settlement outside of the courts. Lawyers' fees in custody cases are normally between EUR 91 and EUR 250 per hour; if legal aid is granted, the hourly fee is EUR 91. The court may hear a social welfare officer as an expert witness in order to determine the best interest of the child, i.e. whether the limiting of access of a parent to the child is justified by the interests of the child. There is no fee for the social welfare officer as he/she would be acting within the scope of his/her duties. If witnesses are heard, they are compensated for lost wages and other financial losses.

Full or partial legal aid may be granted to an applicant whose available monthly means are below EUR 1400 (EUR 2400 for two spouses). If the financial situation of the applicant changes during the proceedings, the legal aid office may amend its decision retroactively.

Reimbursement of court fees may be ordered if the court considers it reasonable. The losing party may be ordered to reimburse the winning party's reasonable legal costs in full or in part.

If documents are submitted to the court in a language other than Finnish or Swedish, it is under the discretion of the court to order parties to translate such documents. The fee for

such translations is usually between EUR 40-60 per page, depending on the text. An interpreter may be needed if witnesses are heard in a language other than Finnish or Swedish. Interpretation fees are on average EUR 40-60 per hour. In transnational disputes, such as in Case B, the probability of such need is obviously higher.

There are no specific fees for cross border custody disputes. If a Finnish court has jurisdiction, the proceedings and the fees are the same as in a purely domestic case.

12.3 Case Study 3

Case Study number 3 concerns alimony in a similar situation than case study number 2.

The court fees for proceedings in child support cases depend on the stage at which the hearing concludes. Child support cases in a main hearing are decided by a panel of one judge and three lay members of the court. The court fee for such proceedings is EUR 133. Normal transcription fees are included in the court fee. If there is an appeal, the court fee for the Court of Appeal is EUR 164 and for the Supreme Court EUR 204 if leave to appeal is granted and EUR 102 if leave to appeal is not granted. Alimony cases may be taken to court-annexed judicial mediation. The fee for such proceedings is EUR 102.

In complicated cases, legal representation is recommendable but not compulsory. Lawyers' fees in child support/alimony cases are normally between EUR 91 and EUR 250 per hour. If legal aid is granted, the hourly fee is EUR 91. Courts may hear a social welfare officer as an expert witness in order to determine the monetary need of the child, i.e. the amounts necessary for the nourishment, housing, clothing, hobbies, education, etc. There would likely not be any fee payable for the social welfare officer as he/she would be acting within the scope of his/her duties. If witnesses are heard, they are compensated for loss of wages and other financial losses.

Full or partial legal aid may be granted to an applicant whose available monthly means are below EUR 1400 (EUR 2400 for two spouses). If the financial situation of the applicant changes during the proceedings, the legal aid office may order the decision on legal aid to be amended retroactively.

Reimbursement of the court fees may be ordered if the court considers it reasonable. The losing party may be ordered to reimburse the winning party's reasonable legal costs in full or in part.

If documents are submitted to the court in a language other than Finnish or Swedish, it is at the court's discretion to order parties to translate such documents. The fee for such translations is usually between EUR 40-60 per page, depending on the text. An interpreter may be needed if witnesses are heard in language other than Finnish or Swedish. Interpretation fees are on average EUR 40-60 per hour. In transnational disputes, such as in Case B, the probability of such need is obviously higher.

There are no specific fees for cross border child custody/alimony disputes. If a Finnish court has jurisdiction, the proceedings and the fees are identical to those in a purely domestic case.

12.4 Case Study 4

Case study number 4 concerns a commercial dispute relating to ascertaining whether delivered goods conform to what was agreed. The dispute is to be regarded in both a national and a transnational context.

In general, commercial contract disputes in Finland are decided by judgment which is rendered after a main hearing before a panel of one to three judges. The court fee for proceedings with a panel of one judge is EUR 133 and with a panel of three judges EUR 164. Normal transcription fees are included in the court fee. In case of appeal, the court fee for the Court of Appeal is EUR 164 and for the Supreme Court EUR 204 if leave to appeal is granted and EUR 102 if leave to appeal is not granted. Commercial disputes may also be referred to court-annexed judicial mediation. The fee for such proceedings is EUR 102, provided that it results in agreement. Judicial mediation with respect to commercial disputes is, so far, quite rare.

Under the Finnish Code of Judicial Procedure, a party may always represent himself in any proceedings. Thus, if the company structure is such that the owner is personally liable for the company, he may represent himself. However, if the company structure is such that the owners may not represent the company (e.g. limited liability companies), lawyer representation is mandatory. In any case, lawyer representation is recommended even if it

is not compulsory. In general, lawyers' fees are on average between EUR 200 and EUR 400 per hour in commercial disputes. If a party can establish a probability that he/she holds a debt that may be rendered payable by a court or similar decision, and that a danger exists that the opposing party may hide, destroy or convey his property or take other action endangering the payment of the debt, that party may ask the court to order a precautionary measure. The cost for execution of such precautionary measure is EUR 168. If a precautionary measure is granted, the applicant is normally required to provide security for the amount of the precautionary measure or for any damage to the adverse party that may be caused by the precautionary measure. If the final decision is favorable, bailiff assistance may be requested to execute the decision. Execution costs, in addition to the basic fee of EUR 168, consist of normally 1,25 per cent of each disbursement.

The use of expert witnesses is not compulsory. The court may appoint an expert to be heard on the conformity issue, if the court considers it appropriate. There is no fee if the expert is a holder of a public office acting within his/her scope of duties; otherwise the expert is entitled to reasonable remuneration for work and necessary expenses. If witnesses are heard, they are also entitled to compensation for loss of time and expenses.

Legal aid is not applicable for corporate entities. The losing party, according to the main rule, will be ordered to pay the reasonable legal costs of the winning party in full or in part.

If documents are submitted to the court in a language other than Finnish or Swedish, it is at the discretion of the court to order parties to translate such documents. The fee for such translations is usually between EUR 40-60 per page, depending on the text. An interpreter may be needed if witnesses are heard in language other than Finnish or Swedish. Interpretation fees are on average EUR 40-60 per hour. In transnational disputes, such as in Case B, the probability of such need is obviously higher.

There are no specific fees for cross border commercial disputes. If a Finnish court has jurisdiction, the proceedings and the fees are identical to those in a purely domestic case.

12.5 Case Study 5

Case Study number 5 concerns product liability and consumer protection.

In general, commercial contract disputes in Finland are decided by a judgment which is rendered after a hearing before a panel of one to three judges. The court fee for proceedings with a panel of one judge equals EUR 133 (EUR 164 for proceedings with a panel of three judges). Normal transcription fees are included in the court fee. In case of appeal, the court fee for the Court of Appeal is EUR 164 and for the Supreme Court EUR 204 if leave to appeal is granted and EUR 102 if leave to appeal is not granted. Commercial disputes may also be referred to court-annexed judicial mediation. The fee for such proceedings is EUR 102. Judicial mediation with respect to commercial disputes is, so far, quite rare.

Lawyer representation is recommended but not compulsory. In general, lawyers' fees are on average EUR 91 - 500 per hour, depending on the type and specificities of each assignment. If a party can establish a probability that he/she holds a debt that may be rendered payable by a court or similar decision, and that a danger exists that the opposing party may hide, destroy or convey his property or take other action endangering the payment of the debt, that party may ask the court to order a precautionary measure. The cost for execution of such precautionary measure is EUR 168. If a precautionary measure is granted, the applicant is normally required to provide security for the amount of the precautionary measure or for any damage that may be caused to the adverse party by the precautionary measure. If the final decision is favorable, bailiff assistance may be requested to execute the decision. Execution costs, in addition to the basic fee of EUR 168, consist of normally 1,25 per cent of each disbursement.

The use of expert witnesses is not compulsory. The court may appoint an expert to be heard on the issue, if the court considers it appropriate. There is no fee if the expert is a holder of a public office acting within his/her scope of duties; otherwise the expert is entitled to reasonable remuneration for work and necessary expenses. If witnesses are heard, they are also entitled to reasonable compensation for loss of time and expenses.

Legal aid is not applicable for corporate entities. The losing party, according to the main rule, will be ordered to pay the reasonable legal costs of the winning party in full or in part.

If documents are submitted to the court in a language other than Finnish or Swedish, it is at the discretion of the court to order parties to translate such documents. The fee for such translations is usually between EUR 40-60 per page, depending on the text. An

interpreter may be needed if witnesses are heard in language other than Finnish or Swedish. Interpretation fees are on average EUR 40-60 per hour. In transnational disputes, such as in Case B, the probability of such need is obviously higher.

There are no specific fees for cross border disputes. If a Finnish court has jurisdiction, the proceedings and the fees are identical to those in a purely domestic case.

INSURANCES

Insurance is available to cover the risks of litigation in civil proceedings. Average costs for such insurance varies greatly. One of the determining factors regarding the amount of costs for insurance is whether the policy holder is a private person or not. For private persons, legal expenses insurance is usually included in an insurance package. Thus, there is no information available regarding the costs for only the legal expenses insurance. The insurance is usually limited geographically. Often the insurance covers only disputes in Northern Europe. The premiums are in general not dependent on the geographical area that is covered by the insurance. In most legal expenses insurance, the insurance does not cover a wide variety of situations, which commonly include family law related disputes, matters relating to employment, disputes relating to pledges, disputes relating to other real property than the policy holder's home etc.