

Case study 1 - family law - divorce - Spain

Costs in Spain

Costs for court, appeals and alternative dispute resolution

Case study	Court	Appeals				Alternative dispute resolution			
		Initial costs	General costs	Other costs	Initial costs	General costs	Other costs	Is this option available for this type of case?	Costs
Case A	Divorce by mutual consent is one of the cases exempted from the requirement to pay a court fee. In contested divorce proceedings a fee is payable unless the measures requested only concern minors.	Initial costs.- Deposits to lawyer and legal representative, unless the party is entitled to legal aid under Law 1/1996 on legal aid.	General costs These are the general costs of proceedings. These are payable by the party whose claims have all been dismissed (the principle that the losing party bears the costs), unless the case raises serious matters de facto or de jure to be clarified (Article 394(1) of the Civil Procedure Law). If the request is granted or dismissed in part, each party must pay their own costs and half the joint costs. The principle that the losing party bears the costs (Article 394.2 of the Civil Procedure Law) applies in contested divorce cases.	Other costs Experts' fees and expenses incurred in obtaining copies, attestations, notarial instruments and deeds or extracts from public registers.	The same as at first instance.	The same rule applies as at first instance.	The same rule applies as at first instance.	In Spain there is provision for mediation in the family law cases, but the Autonomous Communities have made provision for mediation free of charge.	

Case study	Court	Appeals				Alternative dispute resolution		
		Initial costs	General costs	Other costs	Initial costs	General costs	Other costs	Is this option available for this type of case?
Case A	Divorce by mutual consent is one of the cases exempted from the requirement to pay a court fee. In contested divorce proceedings a fee is payable unless the measures requested only concern minors.	Initial costs.- Deposits to lawyer and legal representative, unless the party is entitled to legal aid under Law 1/1996 on legal aid). These are the general costs of proceedings of contested divorce proceedings, these are payable by the party whose claims have all been dismissed (Article 394(1) of the Civil Procedure Law).	Other costs Offers of evidence, drafting of the agreement governing the termination of the marriage.	Initial costs Applicants must make a prior deposit, unless they are entitled to legal aid.	General costs The same rule applies as at first instance.	Other costs The same rule applies as at first instance.	Is this option available for this type of case? In Spain there is provision for mediation in family law cases, but the Autonomous Communities have jurisdiction in this matter.	Costs Those paid to the professionals used in the process [Translator's note: missing text at end]
Case B								

Costs of lawyers, administrators and experts

Case study	Lawyers	Costs	Administrators.		Experts		
			Is representation compulsory?	Pre-judgement costs	Post-judgement costs	Is use compulsory?	Costs
Case A	They must be assisted by a lawyer and represented by a legal representative (Article 750 of the Civil Procedure Law)	An advance must be paid on fees for a lawyer and legal representative. In contested divorce proceedings post-judgment costs in respect of the losing party.	Does not represent the parties	None	None	Owing to the nature of this procedure, they are not generally used.	None
Case B	They must be assisted by a lawyer and represented by a legal representative (Article 75 of the Civil Procedure Law)	An advance must be paid on fees for a lawyer and legal representative. In contested divorce proceedings post-judgment costs in respect of the losing party.	Does not represent the parties	None	None	Owing to the nature of this procedure, they are not generally used.	None

Costs of witnesses, deposit or guarantee and other costs.

Case study	Witness compensation	Costs	Deposit Does this exist? When and how is it used?	Costs	Other costs Description	Costs
Case A	Witnesses are entitled to claim for loss or harm incurred in attending hearings from the party that has called them (Article 375(1) of the Civil Procedure Law)	Part of these is included in the costs paid	No prior deposit is required	None	Extracts from civil status records, marriage certificates or certificates proving the existence of children, where relevant for their claim to entitlement (Article 777(2) of the Civil Procedure Law)	As applicable
Case B	Witnesses are entitled to claim compensation from the party that has called them for any losses incurred as a result of attending hearings (Article 375(1) of the Civil Procedure Law)	Part of these is included in the costs	No prior deposit is required	None	Extracts from civil status records, marriage certificates or certificates proving the existence of children, where relevant for their claim to entitlement (Article 777(2) of the Civil Procedure Law)	As applicable

Costs of legal aid and other reimbursements

Case study	Legal aid	When is the support total?	Reimbursements
Case A	When and under what conditions is it applicable? To those who can provide evidence of insufficient financial resources for litigation (including fees of legal representative)	Conditions: Parties will be deemed to have insufficient resources when they can provide evidence that all the components of their annual resources and revenue, calculated by family unit, do not exceed twice the Public Income Indicator with Multiple Effects (IPREM) applicable at the time of application.	Can the winning party obtain reimbursement of litigation costs? This depends on the agreement, if any, reached with their lawyer.
Case B	To those who can provide evidence of insufficient financial resources for litigation (including fees of legal representative)	Parties will be deemed to have insufficient resources when they can provide evidence that all the components of their annual resources and revenue, calculated by family unit, do not exceed twice the Public Income Indicator with Multiple Effects (IPREM) applicable at the time of application.	This depends on the agreement, if any, reached with their lawyer.

Costs of interpretation and translation

Case study	Translation	What are the approximate costs?	Interpretation	What are the approximate costs?
Case A	When and under what conditions is it applicable?		When and under what conditions is it necessary?	

All the foreign public or private documents necessary under the legal conditions established (translated by officially recognised sworn translator)

Translators set their own rates.

Interpreters for the proceedings, as necessary.

Interpreters set their own rates.

Case B

Last update: 17/07/2013

The national language version of this page is maintained by the respective Member State. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. The European Commission accepts no responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.