

[Home](#) > ... > [Taking Legal Action](#) > [Where and How](#) > [Costs](#) > Case study 3 - family law - alimony - Spain

Case study 3 - family law - alimony - 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 open for this type of case?	Costs
		Initial costs:	General costs	Other costs	Initial costs	General costs	Other costs	Is this option open for this type of case?	Costs
		Advances paid to the party's lawyer ( <i>abogado</i> ) and legal representative ( <i>procurador</i> ), unless the party is entitled to legal aid under Law 1/1996 on legal aid.	These are the general costs of the proceedings. In a contested divorce the general costs are payable by a party which has had all its claims dismissed (Art. 394(1) of the Code of Civil Procedure). In family law, the usual practice is not to award costs for the proceedings but to split the costs, with each party paying only his or her own costs. However, in some cases a party whose claims have been dismissed may be required to pay the costs. If only some of the claims submitted are successful, each party must pay only his/her own costs. If the case concerns only the payment of maintenance for a child, no costs are charged (Art. 4(1) Law 10/2012).	Offers of evidence, drafting of separation settlement. If expert evidence is requested, the expert must be paid. In cases of mutual agreement, payment for the drafting of the settlement is normally included in the total fees paid to the lawyer.					
Case A		The same as in Case B						The parties may agree on a separation settlement in which they voluntarily establish the amount of maintenance. The settlement must be notified by the Public Prosecutor and approved by the court.	The costs paid to the professional staff taking part in the negotiating process.
Case B			Idem	Idem	Idem	Idem	Idem	Idem	Idem

## Costs for lawyers, bailiffs and experts

Case study	Lawyers	Bailiffs	Pre-trial costs	Post-trial costs	Experts	Costs
	<p>Is representation compulsory? The parties must be assisted by a lawyer (<i>abogado</i>) and represented by a legal representative (<i>procurador</i>) (Art. 750 Code of Civil Procedure). In the event of mutual agreement, the parties may make use of the services of a single lawyer and a single representative to submit the agreement between them.</p>	<p>Is representation compulsory? No representation of the parties. Not applicable in these proceedings.</p>	<p>Pre-trial costs</p>	<p>Post-trial costs</p>	<p>Is use compulsory? Because of the nature of these proceedings there is not usually any role for experts.</p>	<p>Costs</p> <p>None. If an expert opinion is requested, the expert must be paid, unless he/she comes from the psycho-social centre attached to the court.</p>
Case A	<p>The parties must be assisted by a lawyer and represented by a legal representative (Art. 750 Code of Civil Procedure). In the event of mutual agreement, the parties may make use of the services of a single lawyer and a single representative to submit the agreement between them.</p>	<p>No representation of the parties. Not applicable in these proceedings.</p>	<p>None</p>	<p>None</p>	<p>Because of the nature of these proceedings there is not usually any role for experts.</p>	<p>None. If an expert opinion is requested, the expert must be paid, unless he/she comes from the psycho-social centre attached to the court.</p>
Case B	<p>The parties must be assisted by a lawyer and represented by a legal representative (Art. 750 Code of Civil Procedure). In the event of mutual agreement, the parties may make use of the services of a single lawyer and a single representative to submit the agreement between them.</p>	<p>No representation of the parties. Not applicable in these proceedings.</p>	<p>None</p>	<p>None</p>	<p>Because of the nature of these proceedings there is not usually any role for experts.</p>	<p>None. If an expert opinion is requested, the expert must be paid, unless he/she comes from the psycho-social centre attached to the court.</p>

## Costs for witness compensation, pledges or security and other relevant fees

Case study	Witness compensation	Pledges or security	Other costs
	<p>Are witnesses compensated?</p>	<p>Does this exist and when and how is it used?</p>	<p>Costs Description</p>
	<p>Costs</p>		<p>Costs</p>

Case A	Witnesses are entitled to obtain compensation from the party calling them for losses caused by their appearance in court (Art. 375(1) Code of Civil Procedure).	Part of the cost is included in the payment of costs.	No prior pledge or security has to be lodged.	None	Certificates from the Registry of Births, Marriages and Deaths, marriage certificates or birth certificates of children, documents on which they base their entitlement (Art. 777(2) Code of Civil Procedure).	As appropriate
Case B	Witnesses are entitled to obtain compensation from the party calling them for losses caused by their appearance in court (Art. 375(1) Code of Civil Procedure).	Part of the cost is included in the payment of costs.	No prior pledge or security has to be lodged.	None	Certificates from the Registry of Births, Marriages and Deaths, marriage certificates or birth certificates of children, documents on which they base their entitlement (Art. 777(2) Code of Civil Procedure).	As appropriate

## Costs for legal aid and other reimbursements

Case study	Legal Aid	When is full aid given?	Conditions?	Reimbursement
Case A	When and under which conditions does it apply?  It applies to persons who can prove that they have insufficient finances to institute legal proceedings (for example for a lawyer and legal representative).	When is full aid given?	Lack of financial means is said to exist where the individual can demonstrate that his or her resources and income, calculated annually, from all sources and per family unit, do not exceed double the Public Index of Income ( <i>Indicador Público de Renta de Efectos Múltiples</i> -IPREM) in effect at the time of the application. The Public Index of Income (IPREM) is an index used in Spain as a reference for granting allowances, scholarships, grants and the unemployment allowance, among others. It can be calculated here: <a href="http://www.iprem.com.es">http://www.iprem.com.es</a>	Can the winning party obtain reimbursement of the litigation costs?  The winning party can obtain reimbursement of the litigation costs if the other party is ordered to pay costs..
Case B	When and under which conditions does it apply?  It applies to persons who can prove that they have insufficient finances to institute legal proceedings (for example for a lawyer and legal representative).	When is full aid given?	Lack of financial means is said to exist where the individual can demonstrate that his or her resources and income, calculated annually from all sources and per family unit, do not exceed double the Public Index of Income (IPREM) in effect at the time of the application. The Public Index of Income (IPREM) is an index used in Spain as a reference for granting allowances, scholarships, grants and the unemployment allowance, among others. It can be calculated here: <a href="http://www.iprem.com.es">http://www.iprem.com.es</a>	Can the winning party obtain reimbursement of the litigation costs?  The winning party can obtain reimbursement of the litigation costs if the other party is ordered to pay costs.

## Translation and interpretation costs

Case study	Translation	Approximate cost	Interpretation	Approximate cost
Case A	When and under which conditions is it necessary?	Approximate cost	When and under which conditions is it necessary?	Approximate cost

Case B	All foreign public or private documents that may be required under conditions laid down by law (translation by an officially recognised sworn translator)	Translators set their own rates.	Interpreters for the proceedings where this proves necessary.	Interpreters set their own rates. If the interpreter is requested by the court itself, no payment is made.
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