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## Case study 5 - commercial law - responsibility - Spain

### Costs in Spain

#### Costs for courts, appeals and alternative dispute resolution

Case study	Court	Appeals			Alternative dispute resolution Is this option open for this type of case?		
		Initial costs	General costs	Other costs			
	Initial costs: Advances paid to the party's lawyer ( <i>abogado</i> ) or legal representative ( <i>procurador</i> ), and in general payment of fees depending on the type of proceeding and the amount claimed, provided that it exceeds €2 000, unless the party is entitled to legal aid under Law 1/1996 on legal aid.	General costs These are the general costs of the proceedings. They are payable by a party which has had all its claims dismissed (Art. 394(1) of the Code of Civil Procedure).	Other costs Offers of evidence: - Compensation for witnesses - Expert opinions	Initial costs The party lodging an appeal must make a prior deposit, unless entitled to legal aid.	General costs The same rule applies as at first instance.	Other costs The same rule applies as at first instance.	Alternative dispute resolution The parties may reach agreement on the amount owed without the intervention of a third party, in which case the agreement must be approved by the court, and they may reach a settlement by means of mediation even if the proceeding has begun.
Case A	The same as for the previous case	Idem	Idem	Idem	Idem	Idem	Idem

#### Costs for lawyers, bailiffs and experts

Case study	Lawyers	Bailiffs	Experts	
				Is representation compulsory?
Case A	When the amount claimed exceeds €2 000, the parties must be assisted by a lawyer and represented by a legal representative (Art. 31 of the Code of Civil Procedure).	Vary depending on the amount of the claim and the type of proceedings.	No representation of the parties.	The use of experts is advisable (valuation of loss); an expert opinion is paid for by the party requesting it.
Case B	The same as in the previous case	Idem	Idem	Idem

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

Case study Compensation for witnesses

Pledge or security

	Are witnesses compensated?	Does this exist and when and Costs how is it used?
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).	No prior pledge or security has to be lodged.
Case B	The same as in the previous case	Idem

## Costs for legal aid and other reimbursements

Case study	Legal Aid	When is full aid given?	Reimbursement
	When and under which conditions does it apply?	Conditions	Can the winning party obtain reimbursement of the litigation costs?
	It applies to persons who can prove that they have insufficient finances to institute legal proceedings (for example for a lawyer and legal representative).	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.	This will depend on the agreement concluded with the lawyer, if any. Generally speaking, a considerable part or indeed all of the lawyer's fee will be refunded, provided that this does not exceed one third of the amount of the claim. Fees and advance payments to the party's legal representative and expert's fees (where applicable) can be reimbursed after assessment of the costs.
Case A	The same as for the previous case	Idem	Idem

## Translation and interpretation costs

Case study	Translation	Approximate costs?	Interpretation	Approximate costs
	When and under which conditions is it necessary?		When and under which conditions is it necessary?	
	Documents submitted in a language other than Spanish (or, where applicable, the language of the Autonomous Community where the case is being heard) must be accompanied by a translation. The document can be translated privately; if one of the parties challenges that translation on the grounds that it is not accurate, giving reasons for this claim, the Court Clerk will order an official translation to be made of the disputed part of the document at the expense of the party which submitted it. If the official translation is substantially identical to the private translation, the costs must be paid by the party who challenged the translation.	Variable	When a person must take part in proceedings to be questioned, to make a statement or to be notified personally of a decision, and he/she does not know Spanish or, where appropriate, the other official language of the Autonomous Community where the case is being heard, any person who speaks the language in question and who has sworn or promised to translate accurately may be appointed as interpreter.	Difficult to determine in advance.
Case A				
Case B	Idem		Idem	

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