

Case study 3 - family law - alimony - Lithuania

In this case study on family law – alimony, Member States were asked to advise the suing party on litigation costs on litigation costs in order to consider the following situations:

Case A – National situation: Two persons have lived together unmarried for a number of years. They have a three year old child when they separate. A court decision grants custody of the child to the mother. The only outstanding dispute relates to the amount of the alimony owed to the mother by the father for the support and education of the child. The mother sues on this.

Case B – Transnational situation where you are a lawyer in Member State A: Two persons have lived together unmarried in a Member State (State B). They have a three year old child. They separate. A court decision in Member State B gives the child’s custody to the mother. With the agreement of the father, the mother and the child move to live in another Member State (Member State A) where they establish their residence.

An outstanding dispute remains. This relates to the amount of the alimony owed to the mother by the father for the support and education of the child. The mother sues on this in Member State A.



Costs in Lithuania

Costs for Court, Appeals and Alternative Dispute Resolution

| Case Study | Court | | |
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| | Initial court fees | Transcription fees | Other fees |
| Case A | Plaintiffs applying for child support are exempted from the paying the official fee in cases heard by a court | Participants in a proceeding pay 10 Litas for a repeat copy of a court document, and 1 Litas for each page | The court awards payment of the litigation expenses incurred by the successful party to the opposing party, even if the latter is exempt from paying litigation expenses into state funds |
| Case B | Foreign natural or legal persons shall be applied the same conditions of exemption, reduction, deferral and scheduling of payment of litigation costs as are applied to Lithuanian persons. | The same as in national situation | The same as in national situation |

| Case Study | Appeals | | |
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| | Initial court fees | Transcription fees | Other fees |
| Case A | Plaintiffs applying for child support are exempted from the paying the official fee in cases heard by a court | Participants in a proceeding pay 10 Litas for a repeat copy of a court document, and 1 Litas for each page | The court awards payment of the litigation expenses incurred by the successful party to the opposing party, even if the latter is exempt from paying litigation expenses into state funds. |
| Case B | The same as in national situation | The same as in national situation | The same as in national situation |

| Case Study | ADR | |
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| | Is this option open for this type of case? | Costs |
| Case A | Yes, after the essence of the dispute is identified in a preliminary session, the court will offer both parties the opportunity to come to a mutually acceptable compromise agreement and thus settle the case amicably | Free |
| Case B | The same as in national situation | The same as in national situation |

Costs for lawyer, bailiff and expert

| Case Study | Lawyer | |
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| | Is representation compulsory? | Average costs |
| Case A | Lawyer representation is not compulsory. | See section on Legal Profession Fee Regulation above |
| Case B | The same as in national situation | The same as in national situation |

| Case Study | Bailiff | | |
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| | Is representation compulsory? | Pre-judgment costs | Post-judgment costs |
| Case A | No | No | No. Bailiffs play their role only after the issue of enforcement orders. Enforcement costs: 1) Periodic payments of alimony are enforced from the debtor's salary – 30 Litas for enforcement, which bailiff receives in every execution case, and other enforcement costs, depending on the kind and quantity of execution actions. |

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| | | | 2) if alimony is recovered from debtor's property, enforcement costs in each case for execution and bailiff's salary will depend on the size of debt |
| Case B | The same as in national situation | The same as in national situation | The same as in national situation |

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| Case Study | Expert | | |
| | Is use compulsory? | Cost | |
| Case A | The court may appoint an expert or expertise for issues that require special knowledge in science, medicine, arts, engineering or craft, subject to the opinion of participants in the proceeding. | An advance surety in an amount established by the court must be paid by the requesting party. The government or an authorised institution establishes the maximum expenses. The court awards payment of the litigation expenses incurred by the successful party to the opposing party, even if the latter is exempt from paying litigation expenses into state funds. | |
| Case B | The same as in national situation | The same as in national situation | |

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

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| Case Study | Witness compensation | | Pledge or security | |
| | Are witnesses compensated? | Cost | Does this exist and when and how is it used? | Cost |
| Case A | Yes, the amounts paid to witnesses are added to the expenses connected with hearing the case | Yes, the amounts paid to witnesses are added to the expenses connected with hearing the case | See section on Experts' Fees above. | See section on Experts' Fees above. |
| Case B | The same as in national situation | The same as in national situation | The same as in national situation | The same as in national situation |

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| Case Study | Other fees | | |
| | Description | Cost | |
| Case A | Other expenses include: 1) the inspection of a location; 2) defendant searches; 3) delivering court documents; 4) satisfying the court judgment; 5) reimbursement for curator's work; 6) others as necessary and reasonable | See section on Experts' above. Expenses for a defendant search must be paid by the party that requested a search or the court. See section on Bailiff's Fees A tutor has the right to receive remuneration for representation in line with tariffs and procedure set by government or its authorised institution. Representation costs are borne by the party on which initiative a tutor is | |

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| | | appointed, who must pay his or her representation costs in advance |
| Case B | The same as in national situation | The same as in national situation |

Costs for legal aid and other reimbursement

| Case study | Legal Aid | | |
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| | When and under which conditions is it applicable? | When is support total? | Conditions? |
| Case A | <p>Primary legal aid can be claimed as described in the section on Legal Aid above.</p> <p>Secondary legal aid is eligible under the conditions set out in the section on Legal Aid above.</p> | <p>The state guarantees 100% percent of the costs of primary legal aid.</p> <p>The costs of secondary legal aid take account of a person's property and income (see section on Legal Aid above)</p> | <p>Persons wishing to receive primary legal aid may apply to the executive institution of a municipality, according to declared place of residence.</p> <p>Persons wishing to receive secondary legal aid must apply with documents substantiating the request and attesting to eligibility for secondary legal aid..</p> |

| Case study | Reimbursement | | | |
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| | Can the winning party obtain reimbursement of litigation costs? | If reimbursement is not total what is percentage in general? | What costs are never reimbursed? | Are there instances when legal aid should be reimbursed to the legal aid organisation? |
| Case A | The winning party can obtain reimbursement of litigation costs from the losing party. | <p>Where the provision of secondary legal aid is terminated on the grounds referred to in subparagraphs 1, 2 and 6 of paragraph 1 of article 23 of the law. Costs can be recovered from the person to whom it was provided in accordance with procedure laid down by the law.</p> <p>Where insurance benefits are paid out after the costs, the costs of secondary legal aid must be refunded to the state budget within one month of the payment of the insurance benefit in line with the procedure laid down by the Minister of Justice. Where a</p> | The costs of state-guaranteed legal aid and those incurred by the debtor in the execution process | <p>Where the provision of secondary legal aid is terminated on the grounds referred to in subparagraphs 1, 2 and 6 of paragraph 1 of article 23 of the law. Costs can be recovered from the person to whom it was provided in accordance with procedure laid down by the law.</p> <p>Where insurance benefits are paid after the costs, the costs of secondary legal aid must be refunded to the state budget within one month of the payment of the insurance benefit in line with the procedure laid down by the Minister of Justice. Where a</p> |

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| | <p>person fails to refund these costs, they must be recovered in accordance with legal procedure.</p> <p>Where secondary legal aid has been provided (subparagraph 6 of article 12 of the law) but where the circumstances change (subparagraph 1 of paragraph 2 of article 11) such a person must refund the amount of the secondary legal into the state budget within the time limit laid down by the service. If they fail to do so, the costs will be recovered in accordance with the required legal procedure</p> <p>Where 50% cent of the costs of secondary legal aid are covered, and an applicant fails pay his or her 50% percent share of the costs of civil or administrative the proceedings within the time limits required, the case may be terminated without the court taking a decision on the merits of the matter, and the applicant must refund the costs of secondary legal aid provided within the time limits laid down by the service. The state will be represented by the legal aid service.</p> | | <p>person fails to refund these costs, they shall be recovered in accordance with legal procedure.</p> <p>Where secondary legal aid has been provided (subparagraph 6 of article 12 of the law) but where the circumstances change (subparagraph 1 of paragraph 2 of article 11) such a person must refund the costs of the secondary legal provided to the state budget within the time limit laid down by the service. If they fail to do so, the costs will be recovered in accordance with the required legal procedure</p> <p>Where 50 per cent of the costs of secondary legal aid are covered, and an applicant fails to fulfil the duty to pay 50 percent of the costs of civil or administrative the proceedings within the time limits required, the case may be terminated without the court taking a decision on the merits of the matter, and the applicant must refund the costs of secondary legal aid provided to the state budget within the time limits laid down by the service.</p> <p>Where the costs of secondary legal aid must be recovered, the state must be represented by the service.</p> |
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Costs for translation and interpretation

| Case study | Translation | | Interpretation | |
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| | When and under what conditions is it necessary? | Approximate cost? | When and under what conditions is it necessary? | Approximate cost? |
| Case A | All the court documents and their annexures must be submitted to the court in the state language. | A party, whose court documents must be translated into a foreign language, must pay in | People, who do not speak the official language, are guaranteed the right to interpretation/translation | The court must pay the amounts due to interpreters /translators from the state budget funds. |

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| | | advance a surety set by the court to cover litigation expenses. If both parties submit petitions, both parties will pay the surety in equal parts. | services during the proceedings. | |
| Case B | The same as in national situation | The same as in national situation | The same as in national situation | The same as in national situation |

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