

Case study 5 - commercial law - responsibility - Romania

In this case study on commercial law – responsibility, Member States were asked to advise the customer on litigation costs in order to consider the following situations:

**Case A – National situation:** A heating equipment manufacturer delivers a heater to an installer. The installer on-sells (and installs) the heater to a customer to equip his/her house. The house catches fire shortly thereafter. Every participant (heating equipment manufacturer, installer, end-customer) is insured. The origin of the fire is contested. Nobody wants to compensate the customer.

The customer decides to sue for full compensation the heating equipment manufacturer, the heating equipment installer and the insurance companies.

**Case B – Transnational situation:** A heating equipment manufacturer in a Member State B delivers heater to an installer in a Member State C. The installer on-sells the heater (and installs) the heater to a customer in Member State A to equip his/her house. The house catches fire shortly thereafter. Each participant (heating equipment manufacturer, installer, end-customer) is insured by an insurance company in its own Member State. The origin of the fire is contested. Nobody wants to compensate the customer.

The customer decides to sue in Member State A for full compensation the heating equipment manufacturer, the heating equipment installer and the insurance companies in Member State A.



Costs in Romania

Costs for Court, Appeals and Alternative Dispute Resolution

Case Study	Court		
	Initial court fees	Transcription fees	Other fees
Case A	The initial costs for bringing the action before the court (comprising court fee and stamp duty) depend on the amount (value) of the claim, as estimated by the applicant. These may vary between around EUR 0.5 and over EUR 1300	In order to obtain simple copies of various procedural documents drafted by specialised court personnel (clerks), the photocopying costs (varying between EUR 0.05 and EUR 1.25 per copy) must be paid	<p>1. Legalisation – Attestation in order to obtain an authenticated court decision – RON 2.15 (approximately EUR 0.5) comprising RON 2 (court fee) and RON 0.15 (stamp duty)</p> <p>2. Investing the court decision with an enforceable formula – RON 4.15 (approximately EUR 1) comprising RON 4 (court fee) and RON 0.15 (stamp duty)</p>



			in compulsory ?				
<b>Case A</b>	NO	Variable costs depending on the legal assistance contract  Not applicable in this case, as representation is not compulsory	NO	Not applicable in this case, as only the court decision (issued post judgment) can be subject to enforcement, if the losing party does not execute it willingly	<b>Granting enforcement of the court decision – RON 10.3 (approximately EUR 2.5)</b> , comprising RON 10 (court fee) and RON 0.3 (stamp duty)  <b>Notification– RON 20 minimum fee (approximately EUR 5) and RON 400 maximum fee (approximately EUR 100)</b>  Bailiff's fees - depends on the sum awarded by the court as compensation	Yes	Variable costs, established by the court depending on the level of expertise required
<b>Case B</b>	NO	Variable costs depending on the legal assistance contract.  Not applicable in this case, as representation is not compulsory	NO	Not applicable in this case, as only the court decision (issued post judgment) can be subject to enforcement, if the losing party does not execute it willingly	<b>Granting enforcement of the court decision – RON 10.3 (approximately EUR 2.5)</b> , comprising RON 10 (court fee) and RON 0.3 (stamp duty)  <b>Notification– RON 20 minimum fee (approximately EUR 5) and RON 400 maximum fee (approximately EUR 100)</b>  Bailiff's fees - depends on the sum awarded by the court as compensation	Yes	Variable costs, established by the court depending on the level of expertise required

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

Case Study	Witness compensation		Pledge or security	
	Are witnesses compensated?	Cost	Does this exist and when and how is it used?	Cost
<b>Case A</b>	Yes	Transport costs are reimbursed and, if the witness so requests, compensation for the time spent in court may also be recovered (depending on sources of income – e.g. employment contract etc)	Eventual requests for insuring evidence (proofs such preserved documents)	<b>RON 8.3 (approximately EUR 2)</b> comprising RON 8 (court fee) and RON 0.3 (stamp duty)
			If the party requests the grant of insurance measures (insuring sequester, garnishment)	RON 10.3 (approximately EUR 2.5) comprising RON 10 (court fee) and RON 0.3 (stamp duty)

<b>Case B</b>	Yes	Transport costs are reimbursed and, if the witness so requests, compensation for the time spent in court may also be recovered (depending on sources of income – e.g. employment contract etc)	Eventual requests for insuring evidence (proofs such as preserved documents)	<b>RON 8.3 (approximately EUR 2)</b> comprising RON 8 (court fee) and RON 0.3 (stamp duty)
			If the party requests the grant of insurance measures (insuring sequester, garnishment)	RON 10.3 (approximately EUR 2.5) comprising RON 10 (court fee) and RON 0.3 (stamp duty)

**Costs for legal aid and other reimbursement**

<b>Case study</b>	<b>Legal Aid</b>		
	<b>When and under which conditions is it applicable?</b>	<b>When is support total?</b>	<b>Conditions?</b>
<b>Case A</b>	If the applicant is a natural person, please see annex 1 attached	If the applicant is a natural person, please see annex 1 attached	If the applicant is a natural person, please see annex 1 attached
<b>Case B</b>	If the applicant is a natural person, please see annex 1 attached	If the applicant is a natural person, please see annex 1 attached	If the applicant is a natural person, please see annex 1 attached

<b>Case study</b>	<b>Reimbursement</b>			
	<b>Can the winning party obtain reimbursement of litigation costs?</b>	<b>If reimbursement is not total what is percentage in general?</b>	<b>What costs are never reimbursed?</b>	<b>Are there instances when legal aid should be reimbursed to the legal aid organisation?</b>
<b>Case A</b>	Yes	In general 100% of the costs are reimbursed.	All the costs can be reimbursed in this case  All the costs can be reimbursed, except for costs relating to the following situation: The sued party who admitted the applicant's claim at the first hearing need not pay judicial costs, except where the sued party was notified before the hearing  In the case when the court partially accepts the claims of both parties, the court will determine to which extent the parties can be ordered to pay the trial costs. The court can also order the compensation of the expenses.	NO

			Moreover, the court has the right to increase or to reduce the lawyers' fees if they are found to be unreasonably low or high in relation to the value of the case or the work undertaken by the lawyer	
<b>Case B</b>	Yes	In general 100% of the costs are reimbursed	<p>All the costs can be reimbursed, except for costs relating to the following situation: The sued party who admitted the applicant's claim at the first hearing need not pay judicial costs, except where the sued party was notified before the hearing</p> <p>In the case when the court partially accepts the claims of both parties, the court will determine to which extent the parties can be ordered to pay the trial costs. The court can also order the compensation of the expenses.</p> <p>Moreover, the court has the right to increase or to reduce the lawyers' fees if they are found to be unreasonably low or high in relation to the value of the case or the work undertaken by the lawyer</p>	NO

#### Costs for translation and interpretation

Case study	Translation		Interpretation		Other costs specific to cross-border disputes?
	When and under which conditions is it necessary?	Approximative cost?	When and under which conditions is it necessary?	Approximative cost?	Description
<b>Case A</b>	In general, not applicable in this case	In general, not applicable in this case.	When the party who should be heard by the court is deaf or mute, or does not know how to write.	<b>RON 23.15 per hour (approximately EUR 6)</b>	
<b>Case B</b>	<p>1. When documents submitted to the court (part of the case dossier) are written in another language.</p> <p>2. In addition, when a party contests the accuracy of the document translated into Romanian, the court may request the translation of the document by an authorised translator.</p>	The costs may vary according to the translation contract or, if the translation is performed by an authorised translator at the court's request, a fee of <b>RON 33.56 (approximately EUR 8) per page in A4 format should be paid</b>	If at least one of the parties does not speak Romanian. State A = Romania	<b>RON 23.15 per hour (approximately EUR 6)</b>	Yes, they are borne by the state

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