Costs

Poland

This page provides you with Information about the costs of justice in Poland.

Family law - Divorce
Family law – custody of the children
Family law – alimony
Commercial law – contract
Commercial law – responsibility

Regulatory framework governing the fees of legal professionals

Advocates

In Poland, remuneration in individual cases is determined by agreement between the advocate (*adwokat*) and the client, subject to the law. The following factors may be considered:
the complexity and scope of the legal issue;
the time required for proper performance of an assignment;
the experience and professional skills of the advocate;
time limits;
the level of urgency;
other factors.
According to the Regulation of the Minister of Justice on Fees for Advocates' Services of 28 September 2002 (*Rozporządzenie w sprawie opłat za czynności adwokackie*), remuneration must take into consideration:
the type and complexity of the case;
the work required by the case.
In particular cases, depending on the material and family situation of the client, the advocate can set the remuneration at a lower level than that required by the Act on Judicial Costs in Civil Cases (*Ustawa o kosztach sądowych w sprawach cywilnych*).
In principle, the losing party pays the costs of the legal proceedings. However, the amount granted by the judge (for the representation provided by the advocate) must respect the limit set out in the Regulation of the Minister of Justice on Fees for Advocates' Services of 28 September 2002. Therefore (according to paragraph 2), the fee may not exceed the minimum rate multiplied by six, nor the value of the object of litigation. The amount of the fee also depends on the nature and objectives of the case and the stage of the proceedings. Chapters 2 to 5 of the Regulation define the minimum fees for various types of case.

Attorneys at law

Attorneys at law (*radcy prawni*) in Poland are governed by rules similar to those governing advocates.

Judicial Enforcement Officers (Bailiffs)

Polish law also sets out fees for judicial enforcement officers/bailiffs (*komornicy*) – in the Act on Judicial Enforcement Officers and Enforcement Proceedings (*Ustawa o komornikach sądowych i egzekucji*).
The general rules are:
In all financial cases, remuneration should be calculated as a percentage of the amount of the likely claim. When the judicial enforcement officer secures a pecuniary claim, the remuneration paid by the creditor may not exceed 2 per cent of the value of the claim, nor can it be less than 3 per cent of the average monthly wage or higher than this amount multiplied by 5.
In the execution of a claim, the judicial enforcement officer collects a fee from the debtor that is 15 per cent of the claim. This may not be lower than 10 per cent of the average monthly wage and may not exceed this value multiplied by 30.
In non-financial cases, when the judicial enforcement officer secures and executes a non-pecuniary claim, the remuneration is fixed.

Fixed costs

Fixed costs in civil proceedings

The Act governing judicial costs in civil cases covers fees and expenses.
The fee is the amount of money charged for every document presented to the court, where the law provides for such a fee. There are three different types of fees: variable, fixed and basic.
The amount of the fee varies depending on the nature of the case: civil law, family law, commercial law or other. The type of legal action is also considered when determining costs.
The expenses include charges linked to the participation of the parties, witnesses and experts in the proceedings. They depend on the **time** and **effort** involved. Expenses may include the remuneration of interpreters and translators, costs of travel and accommodation, and remuneration for income lost by witnesses because of time spent in court. Other expenses considered are: remuneration of other institutions and persons, the examination of evidence, transport and safekeeping of animals and objects, time spent under arrest, and making announcements.
Additionally, there are **litigation costs**. These consist of judicial costs, the costs of trial preparation and actions taken by the advocate or attorney at law to represent the client (including fees for representation and counsel).
The general rule is that the losing party must reimburse the successful party for costs that were reasonably incurred to safeguard the latter's interests, unless provided otherwise. However, the winning party must wait until sentencing before these costs can be reimbursed. The question of costs is decided in the last phase of a judicial proceeding, just before final judgement.

Stage of the civil proceeding where fixed costs must be paid

Payment of the amount due should be made at the moment of lodging a document to the court – (Article 10 of the Act on Judicial Costs in Civil Cases).

Fixed costs in criminal proceedings

Fixed costs for parties to criminal proceedings

In general, costs are not fixed but are calculated after judgement has been handed down. The amount depends on the length of the proceedings, the sentence and experts' fees. Fixed costs can be predicted only in cases brought by private application, when the person introducing the application must pay a fixed initial fee.

Stage of the criminal proceeding where fixed costs must be paid

Fixed costs for parties to criminal proceedings must be paid after a judgement (that is valid and binding on the parties).

Basic costs in constitutional proceedings

The **Polish Code of Civil Procedure** provides (in Article 424) for the possibility of filing a request for review, in response to a definitive judgement in the second instance. This may be done if a judgement causes harm to a party, and if changing and reversing the decision/judgement was or is not possible (a petition challenging the judgement's compatibility with the law).

Such a request is also possible when the incompatibility with the law concerns the violation of the fundamental rules of the legal order, the violation of constitutional freedom or human and civil rights, and where the judgement was delivered in the first instance. In such a case, the **Act on Judicial Costs in Civil Cases** sets an obligatory fee. This is a basic fee of PLN 30, unless the Act provides otherwise (Article 14).

There are also exceptions to this rule; the fee in the following procedures is:

PLN 40 if the petition based on incompatibility concerns a non-trial proceeding initiated *ex officio*.

PLN 1 000 zloty when the petition based on incompatibility concerns a decision of the President of the Office of Competition and Consumer Protection.

PLN 3 000 when the petition based on incompatibility concerns a decision of the President of the National Broadcasting Council.

Basic cost of constitutional proceedings where fixed costs must be paid

Basic cost payments in constitutional proceedings should be paid when the chargeable document is submitted to the court (article 10 of Act on Judicial Costs in Civil Cases).

Prior information to be provided by legal representatives

Rights and obligations of the parties

Under **statutory law**, legal representatives are not responsible for the final result of a proceeding. They are obliged only to maintain a proper level of diligence and take all necessary measures to deal with the case properly. This also means that representatives have the discretion to select information that may be useful to their clients.

Some duties are provided for in the professional codes of conduct. However, these are issued by professional chambers and are purely declarative in nature. If breached, they result in disciplinary action only.

Costs involved

Borne by the winning party

Borne by the losing party.

Sources of costs

Where can I find information on sources of costs in Poland?

You can find information (including information on costs) on the official website of the Polish Ministry of Justice. The Act on Judicial Costs in Civil Cases is generally applicable. This means that anyone involved in legal proceedings or looking for information about costs can find the relevant rules easily.

People who have difficulty understanding the Act can ask for assistance from their legal representatives (advocate or attorney at law). Professional legal representatives may provide information and assistance with various procedures in other languages.

In what languages can I obtain information on cost sources in Poland?

Information is available in Polish only.

Where can I find information on mediation?

The Polish Code of Civil Procedure provides information on mediation in Articles 183¹ to 183¹5. The remuneration of mediators and their refundable expenses are set out in the **Regulation of the Minister of Justice of 30 November 2003**. However, the cost of mediation is not generally considered an expense for the purposes of proceedings before a court, unless the court ordered the mediation.

Where can I find additional information on costs?

Website on cost information

The website of the Polish Ministry of Justice is a section of the official website of the **Polish Government**. It describes the **justice system** and matters related to the Polish civil law, including judicial costs. There is a link on the website to an explanation of costs in civil cases (in Polish only).

Where can I find information on the average length of time that different procedures take?

It is extremely difficult to predict the average length of time of a legal procedure as this depends on the extent of the legal and factual complexity of the case.

Where can I find information on the average aggregate cost for a particular proceeding?

Despite the above proviso, it is possible to calculate the average costs of a proceeding. The cost of legal representation is defined at the beginning of the proceeding. The costs depend on an agreement between the client and the representative. As far as legal representation ex officio is concerned, the costs are provided for in the Regulation.

It is also possible to estimate the costs of the procedure in the court itself. The fees are defined in the Act on Judicial Costs in Civil Cases and depend on the value of the object of litigation and the nature of the case (e.g. commercial or divorce). The parties may also take into account the cost of summoning experts.

Value Added Tax

How is this information provided?

The fees and expenses defined in the Act on Judicial Costs in Civil Cases are tax-free and therefore not subject to VAT. Legal assistance is subject to a uniform VAT rate (23%).

What are the applicable rates?

The applicable rate of VAT is 23%. The services provided by attorneys at law and advocates are taxed like other services. The taxation is established by the law on value added tax.

Legal aid

Applicable income threshold in the area of civil justice

People seeking exemption from litigation costs must present an official application. An exemption may be granted if they can prove that they are unable to cover the costs without hardship to themselves or their families.

Also, applicants must present a written statement providing the following data: marital status, income, sources of revenue and assets. If the above conditions are fulfilled, the court will grant the exemption and, in addition, will assign free professional legal aid (a legal representative is paid by the **State Treasury** at the beginning of the trial; at the end of proceedings, the losing party is obliged, at the request of the winning party, to refund the expenses).

Applicable income threshold in the area of criminal justice

There is no fixed income threshold. A general rule is that an applicant must duly prove that – taking into account his or her family's financial situation – paying the costs would be burdensome.

Applicable income threshold in the area of criminal justice for victims

There is no fixed income threshold. Legal aid is granted if the victim – as a party to the proceedings – is unable to pay the costs without prejudice to his and his family's financial situation.

Other conditions attached to the granting of legal aid for victims

As mentioned above, the victim must be a party to the proceedings. During the inquiry, the victim is the party ex officio. At the court stage of the proceedings, he or she must obtain the status of a so-called 'subsidiary prosecutor' (*partie civile* in French).

Other conditions attached to the granting of legal aid for defendants

There are no other conditions governing legal aid for defendants. There are, however, additional grounds for granting legal aid to defendants. Legal aid is obligatory where:

the defendant is a minor;

the defendant is deaf, dumb, or blind;

there is good reason to doubt the defendant's sanity;

the court deems it necessary because of circumstances impeding the defence;

the proceedings take place before a district court as a court of first instance, where a person is accused of a felony or deprived of his/her liberty;

the procedure takes place in the Supreme Court.

Cost-free court proceedings

In cases of public prosecutions in criminal cases, the costs are covered by the State Treasury.

Juvenile cases are free of charge.

Claimants in certain cases (e.g. maintenance obligations and abusive contractual clauses) are exempted from judicial expenses (Article 96 of the Act on Costs in Civil Cases).

When does the losing party have to pay the winning party's costs?

The general rule is that the **losing party** is required to cover the essential costs of the procedure and refund the winning party's costs for legal representation. The refundable costs are specified in the Polish Code of Civil Procedure (Articles 98-110). In particular, recoverable costs include: costs of trial, transport, equivalent loss of earnings and the costs of a legal representative.

Experts' fees

The court decides on the remuneration of experts – depending on the objectives of the case, qualifications, time duration and the extent of the workload.

Translators' and interpreters' fees

The fees depend on whether the translation/interpreting is ordered by the State or requested by private entities.

The Regulation on the Remuneration of Sworn Translators (adopted by the **Ministry of Justice on 25 January 2005 – Journal of Laws 2007/41, item 265**) lays down the fees payable by public institutions. According to the Act, the costs are determined by the following factors: source and target language (based on the general idea that it is usually easier and therefore cheaper to translate from a foreign language into the home language). Other factors are terminology and level of specialisation.

In the non-public sector, the costs are regulated by contract between the translator/interpreter and his or her client.

The sources are:

the Regulation of the Minister of Justice of 28 September 2002 on Fees for Advocates' Services – Journal of Laws 2002/163, item 1348;

the Act on Costs in Civil Cases – Journal of Laws 2005/167, item 1398;

the Regulation of the Minister of Justice of 25 January 2005 on the Remuneration of Sworn Translators — Journal of Laws 2007/41, item 265.

Related Attachments

Poland's report of the Study on Transparency of costs PDF (396 Kb) en

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