

Procedure for the Recovery of Court Costs in Civil Courts of Foreign Countries

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Abstract: This article is dedicated to the study of the procedure for recovering court costs in civil courts of foreign countries. Special attention is paid to the principles of cost allocation between the parties, mechanisms of legal aid, and judicial compensation. A comparative analysis of the legal systems of Germany, France, the United Kingdom, the United States, and other countries is presented. The article substantiates the necessity of adapting foreign experience to improve the efficiency of the national civil justice system.

Key words: court costs, civil procedure, foreign experience, legal aid, cost compensation, "loser pays" principle.

Court costs are an important institution of civil procedure that ensures a balance between the right to judicial protection and the duty of the parties not to abuse the judicial system. In many foreign countries, the procedure for recovering court costs is based on the principles of procedural fairness, cost-efficiency, and reasonableness.

Studying and analyzing these models helps improve the effectiveness of domestic justice, especially in the context of legal globalization and the active reform of the judicial system in foreign countries.

In foreign countries, court costs are traditionally divided into:

1. **Mandatory state fees and duties**, paid when filing a claim or an appeal;
2. **Parties' expenses**, including attorneys' fees, expert fees, translators, witnesses, and transportation costs.

The recovery of such costs usually depends on the outcome of the case and is determined by one of the following approaches:

- The **"loser pays" rule**;
- The **self-bearance rule** (each party pays its own costs regardless of the outcome).

Below, we will examine the procedure for the recovery of court costs in civil courts of several foreign countries.

In Germany court costs are regulated by the **Court Costs Act (GKG)**. The losing party must reimburse the winning party's costs, including fees and attorneys' costs, within approved tariffs. In cases of partial success, costs are apportioned proportionally. **Legal aid (Prozesskostenhilfe)** is available for those in financial need.

In France State fees are relatively low, but legal representation costs can be significant. According to **Article 700 of the French Code of Civil Procedure**, the court may oblige the losing party to fully or partially reimburse the opponent's legal costs. Compensation is not mandatory and is subject to the court's discretion. A comprehensive **aide juridictionnelle (legal aid)** system is in place.

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*In the United Kingdom the "loser pays" principle is strictly applied. Courts may order full or partial cost recovery, including **reasonable solicitor's fees**. **Pre-action Protocols** encourage dispute resolution before litigation, helping reduce costs. There are **streamlined procedures** like **Small Claims Track** with limited cost recovery.*

In the United States, court costs are calculated somewhat differently. The **American Rule** prevails — each party bears its own costs regardless of the outcome. Exceptions include:

- Claims under specific laws allowing fee-shifting;
- **Class actions**, where reimbursement may be awarded by court or fund;
- **Sanctions for abuse** of process or bad faith litigation.

A wide **pro bono system** and legal clinics support access to justice.

*In Scandinavian Countries (Sweden, Norway, Denmark) a **combined approach** is used — the losing party reimburses reasonable costs, but the amount is capped or limited by the court. Courts may reduce reimbursement if the claim was filed in good faith.*

*In many foreign jurisdictions, the reimbursement of legal expenses is closely linked with legal aid. Countries like **Germany, the UK, and France** have developed legal aid systems for vulnerable groups. In the **USA**, support is provided through public legal organizations, foundations, and **pro bono services**. This aid covers not only representation but also exemption from court fees and expenses. It ensures the **right to access to justice**, as enshrined in international human rights instruments (e.g., **Article 6 of the European Convention on Human Rights**).*

In most countries, cost recovery depends on the court's evaluation of the **reasonableness and necessity** of claimed expenses. In the **UK**, expenses exceeding **reasonable and proportionate costs** may be denied. In the **US**, attorney's fees are rarely reimbursed, except in specific cases (e.g., antitrust or discrimination claims). In **France**, the court has wide discretion under **Article 700 of the CPC**.

Thus, even with a shared principle (e.g., "loser pays"), outcomes may differ based on the case's circumstances and the litigation category.

I would like to provide examples from the judicial practice of the United States and France.

For example, in the judicial practice of the United States:

- ✓ *Boddie v. Connecticut (1971)* — in this U.S. Supreme Court case, the Court held that denying access to the courts due to inability to pay court filing fees violates the Due Process Clause of the Fourteenth Amendment. This case established that even minimal court fees should not block individuals' access to justice, especially in cases like divorce.
- ✓ *Zubulake v. UBS Warburg (2004, multiple rulings)* — in this employment discrimination case, the court developed a seven-factor test to determine how to allocate the cost of electronic discovery (e.g., restoring data from backup tapes). Some discovery costs were shared between the parties, illustrating how litigation expenses — particularly for digital evidence — may be redistributed.
- ✓ *Cambridge University Press v. Patton* — in a copyright infringement case involving Georgia State University, the university was deemed the "prevailing party" and was initially awarded legal fees and court costs. Although that decision was appealed, the district court later reaffirmed its position. This case illustrates how legal costs can sometimes be awarded even in educational or institutional contexts.

In the judicial practice of **France**:

- Articles 696 and 700 of the French Code of Civil Procedure:
- ✓ **Article 696:** The losing party generally pays **court costs** ("dépens"), unless the judge rules otherwise.
- ✓ **Article 700:** The judge may order the losing party to pay **non-recoverable costs** ("frais irrépétibles") such as attorney's fees, translation expenses, and expert witness fees. The amount is



determined at the judge's discretion based on fairness ("équité") and the parties' financial situations.

- Family Law Cases (e.g., divorce proceedings) — in family law, French courts rarely award compensation under Article 700, especially in order not to increase tension between the parties. When awarded, sums typically range from €230 to €2,800, depending on the case specifics.
- In commercial cases, courts are more likely to grant higher Article 700 awards — especially if the parties provide detailed documentation of legal expenses. However, the awarded amount is still based on principles of equity and proportionality, and courts rarely allow excessive amounts.

Based on comparative analysis, the following conclusions can be drawn:

First, the most effective systems are those with a flexible approach, meaning that court costs are determined based on the parties' fault, intentions, and conduct during the proceedings;

Second, the development of legal aid systems is essential for the fair recovery of court expenses;

Third, it is necessary to limit excessive fees for legal services and to place their reasonableness under judicial control;

Fourth, promoting mediation and alternative dispute resolution methods can help reduce overall costs.

The procedure for recovering court costs in foreign countries reflects the desire of legal systems to balance fairness, efficiency, and access to justice. Studying and integrating these approaches into national law helps build public trust in the judiciary, prevent frivolous lawsuits, and foster a civilized legal culture.

References

1. The **French Code of Civil Procedure** (*Code de procédure civile*)- <https://french-business-law.com>
2. German Law Archive (germanlawarchive.iuscomp.org).
3. Official German Government Resources (bundesjustizamt.de).
4. <https://www.amsadvocaten.com/blog/litigation/what-costs-can-you-expect-if-you-want-to-take-legal-action-in-the-netherlands/>.
5. "Raad voor Rechtsbijstand".
6. "Wetboek van Burgerlijke Rechtsvordering" WBR.

