

GOVERNMENT DECREE ON LEGAL AID FEE CRITERIA

(389/2002; VALTIONEUVOSTON ASETUS OIKEUSAVUN PALKKIOPERUSTEISTA)

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Section 1

- (1) Fees and expenses shall be assessed in accordance with this Decree to:
 - (1) a private attorney appointed by virtue of the Legal Aid Act (257/2002);
 - (2) a defense counsel and the attorney of the injured party appointed by virtue of chapter 2, sections 1 and 1a of the Criminal Procedure Act (689/1997).
- (2) Section 11 contains provisions on the criteria for the charging of fees by legal aid offices.
- (3) A fee shall be assessed for a support person appointed by virtue of chapter 2, section 3 of the Criminal Procedure Act as provided in section 12.

Section 2

- (1) The fees for preparing for a trial in a District Court shall be as follows:
 - (1) in a criminal matter, EUR 252;
 - (2) in a matter pertaining to coercive measures or a complaint referred to in chapter 7, section 1 of the Act on the Enforcement of Sentences, EUR 84;
 - (3) for the attorney of the plaintiff or of the petitioner in a civil matter or petitionary matter, EUR 505;
 - (4) for the attorney of the defendant or of the party to be heard in a civil matter or petitionary matter, EUR 420.
- (2) Preparations for a trial shall cover *inter alia* consultation, obtaining and perusal of documents, assistance in the application for legal aid and the drafting of an application for a summons, a petition and a response.
- (3) Notwithstanding the provision in paragraph (1), the fee shall be as provided in section 6 if, for reason of the nature or extent of the matter, the preparation for the trial takes longer than three hours in a criminal matter, longer than one hour in a matter pertaining to coercive measures, longer than six hours on the part of the plaintiff or the petitioner in a civil matter or petitionary matter, or longer than five hours on the part of the defendant or the party to be heard in a civil matter or petitionary matter. In this event, specific justification shall be supplied for a fee payable by the hour.
- (4) Notwithstanding the provision in paragraph (1), the fee shall also be as provided in section 6 if, for reason of the nature of the case or another comparable circumstance, the preparation for the trial takes less than the hourly limits laid down in paragraph (3). In this event, specific justification shall be supplied for a fee payable by the hour.

Section 3

The fee for continued written preparation in a District Court shall be EUR 185. Continued written preparation shall cover the drafting of preparatory documents after the application for a summons, the petition or the response, and the consultation pertaining to the same.

Section 4

- (1) The fee for appearing as an attorney in the oral hearing of the matter shall be EUR 303, if the hearing and journey time is at most three hours. However, in the hearing of a matter pertaining to coercive measures and a complaint referred to in chapter 7, section 1 of the Act on the Enforcement of Sentences, the fee shall be EUR 168, if

the hearing and journey time is at most two hours; in a repeated hearing of a matter pertaining to coercive measures and a hearing pertaining to a immigration custody decision, as referred to in section 48 of the Aliens Act (378/1991), the fee shall be EUR 84, if the hearing and journey time is at most one hour.

- (2) In so far as the hearing and journey time exceeds that referred to in paragraph (1) or if it is noted at the opening of the main hearing that it must be cancelled, the fee shall be as provided in section 6.
- (3) No fee shall be assessed for journey time if the matter is heard in the attorney's own court locality, nor shall any fee be assessed for lunch breaks. For each 24-hour period, a fee for journey time shall be assessed for at most three hours, or for a longer period if there is a special reason for the same.

Section 5

The fee for appearing as an attorney in a pre-trial investigation shall be EUR 118 for an inquiry not exceeding two hours. Beyond two hours, the fee shall be as provided in section 6.

Section 6

- (1) For other measures within the scope of application of this Decree, such as the drafting of appeals and responses to appellate courts, the fee shall be assessed by the hour. The hourly rate shall be EUR 84.
- (2) However, for separately billable journey and waiting time, the hourly rate shall be EUR 67. The fees shall be paid by the hour so that the combined journey time and other time are rounded off to the closest hour.

Section 7

If an attorney has several clients in the same matter, the fee for the second client and any further clients shall be at most 70 per cent of the normal fee for each client. If there is a necessary procedural connection between the clients, the attorney shall be deemed to have assisted one client only.

Section 8

- (1) The fee of the attorney shall be assessed at a maximum of 20 per cent higher than the normal fee, if:
 - (1) the task will for a reason not attributable to the attorney have to be performed out of office hours, in a foreign language, under exceptional circumstances or especially urgently;
 - (2) the task is exceptionally difficult and its performance requires special expertise, experience and skill; or
 - (3) the responsibility of the attorney is considerably heavier than normal either because of the scope of the financial interest at stake or because the matter is otherwise of special importance to the client.
- (2) For coercive measures hearings and other necessary attorney work during a pre-trial investigation performed on a Saturday, a Sunday or another holiday, the fee shall be assessed at 50 per cent higher than the normal fee.

Section 9

The fee of the attorney shall be assessed at less than the normal fee, if:

- (1) the attorney does not have the degree of *oikeustieteen kandidaatti* or a corresponding degree, the attorney does not practice advocacy professionally or the attorney otherwise does not incur the overhead of an advocacy business;
- (2) a replacement does not have the same skill and experience as the regular attorney;
- (3) the attorney is taking care of several related cases, where the trial material is to a large extent the same;

- (4) there have been neglect or deficiencies attributable to the attorney in the performance of the task.

Section 10

- (1) The reimbursement of the overhead of an advocacy business is included in the fees. Overhead covers *inter alia* the wages and salaries of clerical staff, the rent and maintenance of office premises, insurance, equipment costs and other fixed costs. Customary postal, telecommunications and copying costs are deemed to be covered by the overhead.
- (2) Expenses to be reimbursed include travel costs, postal, telecommunications and copying costs beyond the customary, and other direct costs.
- (3) The travel regulations for state officials apply to the reimbursement of travel and accommodation expenses. The attorney is entitled to present a bill for the use of his or her own car, if this mode of travel is cheaper than the use of public transport. If the attorney has performed several tasks during the same journey, the travel expenses shall be divided among them.

Section 11

- (1) When a legal aid attorney provides legal aid in court, the criteria for the fee to be billed shall be determined in the same manner as for the fees for private attorneys.
- (2) In other matters, the fees of the legal aid offices shall be as follows:
 - (1) consultation, possibly including the drafting of a simple document, EUR 50;
 - (2) drafting of a document or appeal and other legal assistance, where the performance of the task lasts for at most two working hours, EUR 168; the hours in excess of that shall be billed at EUR 84 per hour.
- (3) However, when a legal aid office provides legal assistance for a full charge, the fee to be billed shall be based on the going rate of attorney services in the locality of the legal aid office.

Section 12

- (1) The fee of a support person appointed by virtue of chapter 2, section 3 of the Criminal Procedure Act shall be EUR 84 per hour. If the appointed support person does not pursue this activity on a professional basis or if he or she otherwise does not incur the overhead relating to the activity, the fee shall be EUR 42 per hour. When a person in the service of a public corporation is appointed as a support person on the basis of his or her position, the fee shall be EUR 17; it shall be paid directly to the appointed support person.
- (2) The expenses that the support person incurs by the activity shall be reimbursed as provided in section 10.

Section 13

The fees provided in this Decree are exclusive of VAT.

Section 14

- (1) In order to have the fees and expenses to be paid from state funds assessed, the recipient of the payment shall supply a bill in duplicate, indicating:
 - (1) the fee claimed, itemised as provided in sections 2-5 into preparation, continued written preparation and oral hearings. In so far as the fee claimed is based on hourly billing, as referred to in section 6(1), the measures and the time spent on them shall be itemised on a daily basis;
 - (2) the journey and waiting times;
 - (3) the basis for an increase, if the attorney deems that the fee should be determined in accordance with section 8;
 - (4) the expenses claimed;
 - (5) the amount of the value added tax in EUR, with itemisation of any tax-free amounts; and

- (6) the names of the client and the attorney, the name, address and bank account information of the business or, alternatively, the personal identification number, address, tax domicile and bank account information of the attorney, if the fee is to be paid directly to him or her.
- (2) When the recipient of legal aid is partially liable to compensate for the same, the bill shall indicate the amount of legal costs and an itemisation of the amount payable from state funds and the deductible of the recipient of legal aid.

Section 15

When legal aid has been granted for legal costs exceeding the deductible of a legal expenses insurance policy or the maximum benefit under such a policy, the court shall be supplied with an account of the total legal costs and an itemisation as to what part of them is claimed from state funds.

Section 16

- (1) Attorneys' fees shall be determined as provided in sections 2-5. When the fee claimed is based on hourly billing, as referred to in section 6(1), and it is paid on this basis, a reasonable number of hours required for the handling of the case shall be laid down in the judgment or order of the court or the decision of the chief legal aid attorney.
- (2) The amount payable as expenses and the value added tax payable to the attorney shall be separately laid down. Any advances shall be taken into account as deductions.
- (3) When legal aid has been granted for the deductible of a legal expenses insurance policy, the fees to be billed shall not be based on sections 2-10 of this Decree, but instead the legal costs bill or account of the attorney shall be assessed in accordance with regular legal costs provisions and the amount payable from state funds to the attorney shall be assessed as stated in the decision of the insurance company.
- (4) When legal aid has been granted for legal costs exceeding the maximum benefit under a legal expenses insurance policy, the fee criteria in this Decree shall be applied.

Section 17

The hearing of the recipient of legal aid on the correctness of the bill, as provided in section 20(2) of the Legal Aid Act, may be carried out by way of the written approval of the recipient on the bill itself.

Section 18

An administrative court and the Insurance Court shall assess the fee and expenses of a private attorney when they remit the main issue to the administrative authority in accordance with section 13(2) of the Legal Aid Act or to a judicial authority referred to in the same section and decide that the appointment of the private attorney is to continue before the said authority. If, after the remission, the case is closed by the said authority, the legal aid office shall assess the fee in respect to the proceedings before the authority.

Section 19

- (1) The fees and expenses referred to in this Decree shall be paid by the Ministry of Justice.
- (2) If the recipient of a payment has been entered into the advance tax register, the attorney shall see to it that the Ministry is in possession of a valid extract from the register, or of a tax card.

Section 20

Where necessary, the Ministry of Justice may issue more detailed guidelines on the implementation of this Decree.

Section 21

This Decree enters into force on 1 June 2002.