# Meeting of the Presidents of the Bars from Central and Eastern Europe

## 1. Lawyer´s Tariff

When the tariff or tariff-based fee is mentioned, the Lawyers' Fees Act, the General Fee Criteria for Lawyers or the Notaries' Fees Act form the basis for the fee note.

The Lawyers' Fees Act is tailored to the services provided by lawyers in connection with court proceedings. According to this law, the court also determines the costs to be reimbursed by the unsuccessful party to the proceedings; it also applies in the absence of an agreement between the lawyer and his own client.

If legal services are not covered by the Lawyers' Fees Act, such as representation and defence in criminal proceedings, the General Fee Criteria for Lawyers are used to assess the appropriateness of the fee.

The General Fee Criteria for Lawyers are the basis for the remuneration of legal services in the course of judicial criminal proceedings, administrative criminal proceedings and disciplinary proceedings. On the one hand, they determine the basis of assessment for the proceedings and, on the other hand, they refer to which services are to be charged according to which tariff item of the Lawyers' Fees Act.

Services that are regulated by law by the Notaries' Fees Act can also be invoiced by the lawyer in accordance with the Notaries' Fees Act. This is often the case when drawing up contracts or wills.

## 2. Types of payment and methods of calculation

### The fee agreement

The principle of free fee agreement applies. The lawyer may charge for his services in the form of a flat fee or a time fee. If nothing has been agreed, the lawyer's appropriate remuneration shall be calculated on the basis of the tariff.

If the activity of a lawyer shows the hoped-for success, a success surcharge can also be agreed upon.

### The flat fee

The flat fee offers the client the advantage that he knows the amount of the fee from the very beginning. In individual cases, this is determined by the required scope of services and the concrete outcome of the negotiations.

### The time fee

As far as the time fee is concerned, the amount of the fee per time unit is agreed. The fee rates can vary and depend on which services are provided by the lawyer, which services are provided by the trainee lawyer and which services are provided by employees of the law firm.

If a time fee is agreed, the lawyer must not only record the type of service, but above all the time spent on it, which forms the essential basis for invoicing.

### Billing according to tariff

See 1.

### The lawyer's tasks in cost accounting

The client is entitled to a detailed list of services in terms of type and scope.

The client may request interim invoicing at reasonable intervals. This agreement should, however, already be established when the lawyer is engaged and should also regulate the start of billing and the time intervals.

If there are doubts as to the correctness of a fee note, the competent regional Bar can review the fee note if no judicial proceedings have yet been initiated. However, the regional Bar cannot clarify questions of evidence. This can only be clarified in court proceedings.

The lawyer is entitled to demand reasonable down payments from his client and to render interim invoices. The lawyer is also entitled to deduct open fee claims from the money received by him for his client. If the lawyer's fee claim is disputed, the lawyer can still deduct the disputed fee. He must, however, deposit the amount in court until the dispute has been settled.

## 3. Payment of lawyer´s in legal aid procedures

The compensation for the services provided by lawyers within the framework of legal aid is provided by a lump-sum fee paid by the Federal Government to the Austrian Bar. The Austrian Bar in turn distributes this lump-sum fee to the nine regional Bars according to a legally provided key. The flat-rate remuneration is to be mandatorily used by the regional Bars for the old-age, disability and survivors' pensions of lawyers. The entire lump-sum remuneration thus flows into the autonomous pension systems of the regional Bars, which are independent of the state.

If the lawyer is called upon to a particular extent, an individual remuneration is due to him. The lawyer is entitled to an individual remuneration for legal aid proceedings in which more than ten days of court hearings or a total of more than 50 hours of court hearings occur within one year. This individual remuneration is determined by the regional Bar and reviewed by the Ministry of Justice. The amount of the individual remuneration is based on the Lawyers' Fees Act.

## 4. Remuneration for functions in the bodies of the Bar

The members of the presidency of the Austrian Bar receive a remuneration for their function in the Bar. This remuneration is determined annually in the budget of the Austrian Bar by the delegates to the Assembly of Representatives.

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