

# Understanding the Federal Courts Costs and Damages Guideline No. 2/2017: A Comprehensive Overview

## Description

By DMLF Team

The Federal Supreme Court of Ethiopia enacted the Federal Courts Costs and Damages Guideline No. 2/2017, which governs the determination of costs and damages across all federal courts and regional courts handling federal cases. This guideline emphasizes that decisions related to costs and damages should be integrated within the main case file that initiated the matter. It stipulates that decision on costs and damages arising during the execution of a judgment has to be determined with the main judgment. Additionally, various circumstances, such as changes in appointment, party disappearances, issues relating to giving of summons, claims amendments, and procedural complications, should also be addressed within the main case regarding costs and damages.

In determining costs and damages, courts must adhere to the guiding principles. These principles are the Principle of reasonableness, whereby courts are required to articulate their rationale in decisions. The focus on fairness dictates that parties must present their claims in a clear and effective manner. Furthermore, the adequacy of costs and damages should reflect the case's complexity, time involved, and its nature. Courts must weigh the existing conditions and behaviors of the parties, providing evidence and justifications for their determinations.

The determination process entails considering various factors, including the type of claim, time invested, case complexity, the quality and presentation of claims by party, the rationality of the claims, and each party's efforts toward resolving the dispute amicably through alternative dispute resolution mechanisms (ADR). Integrity, adherence to court orders and the parties' cooperation with the court are also taken into account. Furthermore, the prevailing market price, situational factors, relationships between parties, and the overall economic context are considered when assessing the final figures.

Costs and damages cover all incurred expenses from the initial claim preparation to the court's final decision. This includes damages associated with claim preparation, defense, appeals, food, accommodation, transportation, and lawyer fees according to the law, expert costs for executing court orders, court fees, mediator fees, and expenses related to witness testimony or translation services. Any costs associated with document translations, copies, scanning, printing, e-filing services, and injunction orders are also included.

Upon concluding a case, the court is tasked with calculating the total costs and damages based on an established algorithm. This involves instructing the parties to present their claims, considering the case's complexity, clearly articulating reasons for the amounts, and determining the payment method and sources. Courts must evaluate both parties' conditions, the context of the case, and other critical factors when determining the exact amount.

If a party fails to submit their claims for costs and damages within the stipulated time, the court is permitted to determine the amounts according to the civil procedure code. Costs and damages may be

deemed excessive when, after evaluating the overall circumstances of the case, they appear disproportionate, involve bad faith, are unrelated to the case, or disregard the economic situation of the party in question. In such instances, the court has the discretion to reduce or dismiss these claims.

Intervening third parties may also be liable for costs and damages if the outcome of the judgment is unfavorable to them. In appellate cases, costs and damages are determined following the same principles as in initial proceedings. If a lower court's decision is reversed or modified, the appellate court may consider the costs already established. However, if the reversal arises from a misinterpretation of the law, each party bears their own expenses. For cassation cases, if the lower court's decision is upheld, only the costs associated with the cassation bench are assessed. Conversely, reversing the lower court's ruling requires the cassation to consider the associated costs.

Lastly, the guideline outlines the enforcement of costs and damages decisions. Execution of costs and damages may occur alongside the main ruling or independently. Should the judgment debtor neglect timely payment, legal interest is calculated starting from the decision date. Payments can be drawn from the assets identified by the judgment creditor, but if the debtor refuses to comply, they must disclose alternative assets for settlement. If collateral is involved, the judgment will be executed against such assets.

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