

ALERT

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SUBROGATION AND RECOVERY

News Concerning
Recent Subrogation and Recovery Issues



A QUIET REVOLUTION: INTERNATIONAL ACCEPTANCE OF CONTINGENT FEE STRUCTURES

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Over the past several years, there has been increasing international recognition of the effectiveness of utilizing contingent fees. Some of the more traditional legal systems in Europe previously resisted this, but there have been some recent developments in countries such as Germany, Italy, and Spain, whereby the use of contingent fee agreements now is permitted. Attached is a jurisdictional chart which summarizes the law of each major European country on the issue of utilization of contingent fees.

Every Canadian province now authorizes the use of contingent fees. In Great Britain, an analogous system for "conditional fees" has been implemented. Contingent fee agreements are lawful and actively utilized throughout Latin America and the Caribbean. Even in Asia, which, similar to Europe, traditionally had favored an hourly fee approach, we now routinely are working with foreign local counsel on a shared contingent fee basis. This is the case in China, Hong Kong, Taiwan, India, and elsewhere.

Cozen O'Connor currently has pending subrogation claims in more than 50 international venues, in which we partner with corresponding counsel. This allows us to combine our subrogation expertise with that of highly experienced commercial litigators in the applicable jurisdiction under a single contingent fee structure.

For additional information about international acceptance of contingency fees, please feel free to contact the undersigned or any of the subrogation contact attorneys in the attached directory.

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COZEN O'CONNOR NATIONAL AND INTERNATIONAL SUBROGATION AND RECOVERY DEPARTMENT
 Survey of European Jurisdictions Regarding Validity of Contingent Fee Structures

Country	Contingent Fees Allowed (YES/NO)
Albania	YES There are no specific provisions regulating conditional or contingency fees.
Austria	NO Austrian lawyers are prohibited from agreeing to any form of contingency fee with their clients (§ 879(2)(2) of the Austrian Civil Code).
Belgium	NO "No win no fee" agreements are not permitted.
Cyprus	NO Contingency fees are not allowed under the rules of the Cyprus Bar Association.
Czech Republic	NO Contingency fees are prohibited.
Denmark	YES, IN PART "No win no fee" is allowed, but not in reference to damages.
Finland	YES Not prohibited but very rarely used.
France	YES, IN PART Although article 10 of the Act of December 31, 1971, as amended, prohibits contingency fees, it expressly authorizes the "agreement which, besides the remuneration of the services performed, provides for the fixation of complementary fees depending on the outcome obtained."
Germany	YES Contingency fees were recently authorized by the German Bar.
Greece	YES, IN PART Contingency fees are not allowed, but conditional fee agreements are allowed. Lawyer's remuneration cannot exceed an amount equal to 20% of the claim.
Hungary	YES
Ireland	YES, IN PART Contingency fees are not permitted, but a conditional "no win, no fee" arrangement is allowed in reference to lawyer's hours.
Italy	YES Both contingency and conditional fees are allowed as a result of law 223/2006 which repealed the regulations providing for "the setting of obligatory fixed rate or minimum tariffs."
Luxembourg	NO
Malta	NO
Netherlands	NO "No win no fee" agreements are not allowed.
Norway	NO
Poland	YES Both contingency and conditional fees are allowed.
Portugal	NO Conditional and contingency fees are not allowed.
Russia	YES, IN PART Contingency fee arrangements are not permitted, but most Russia counsel will arrange alternative "no win, no fee" products.
Slovakia	YES
Spain	YES The Supreme Court (Civil Section) has recently acknowledged the validity of contingency fee agreements.
Sweden	NO Contingency fees are not permitted in Sweden, although some counsel are prepared to arrange alternative no win, no fee products.
Switzerland	NO Swiss lawyers are not allowed to charge contingency fees.
UK (England & Wales)	YES, IN PART Contingency fees are not permitted for litigated matters, but conditional arrangements are allowed. Government proposals to introduce contingency fees are pending.

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