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Family maintenance



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European Judicial Network
(in civil and commercial
matters)

1 What do the concepts “maintenance” and “maintenance obligation” mean in practical terms? Which persons have to pay a maintenance allowance to another person?

They cover parents' common maintenance obligations towards their minor children, in accordance with their financial means, whether they are together or separated. Maintenance obligations are extended to the former spouse if he/she is not in a position to support himself/herself from his/her own financial resources.

Persons that have to pay maintenance allowance are parents to their children and/or former spouses to each other and adult children to their parents if the latter are unable to support themselves from their assets or income.

2 Up to what age can a child benefit from a maintenance allowance? Are there different rules for maintenance concerning minors and adults?

Maintenance obligations stop when the child attains majority, that is, when he/she reaches 18 years of age, unless the child is unable to support himself/herself after reaching adulthood. This applies in cases where the child suffers from a physical or mental illness or cannot work because they are studying at a higher education or vocational institution, or where a male child is carrying out his military service.

In accordance with Cypriot law and, specifically, Article 34 of the Law on the relations between parents and children,

Law 216/90, adult children also have maintenance obligations towards parents.

3 Should I apply to a competent authority or a court to obtain maintenance? What are the main elements of this procedure?

You should apply to a court, and specifically, to the Family Court of the prefecture where you are resident.

The procedure begins with an initial application to recover maintenance, accompanied by a statement under oath by the applicant which is recorded in the court's register. The application is served to the respondent (maintenance debtor) who is given the right to be heard and to file an objection. If the two sides assent, a maintenance decree is issued by common agreement. Otherwise, the application is set for hearing and the court makes a decision based on the testimonies brought by the two sides.

4 Can a request be made on behalf of a relative (if yes, what grade), or a

child?

When the creditor is a minor (i.e. a child under 18 years old), the request is made by the creditor's guardian (e.g. the mother), on behalf of and for the benefit of the creditor.

5 If I plan to bring the case to court, how do I know which court has jurisdiction?

Under Article 12 of the Family Courts Law 23/90 (as amended), when the creditor is a minor, the court having jurisdiction over the place of residence of the creditor or debtor has jurisdiction (Article 12(1)(b)). In all other cases (i.e. when the creditor is an adult), the court having jurisdiction over the place of residence or business of the applicant (creditor) or debtor has jurisdiction (Article 12(1)(a)).

6 As an applicant, do I have to go through an intermediary to bring the case to court (e.g. a lawyer, central or local authority, etc.)? If not, which procedures apply?

Applicants can address the court either in person or through a lawyer.

With regard to the procedure, please refer to paragraph 3 above.

7 Do I have to pay fees to bring a case to court? If so, how much are they likely to be? If my financial means are insufficient, can I obtain legal aid to cover the costs of the procedure?

The procedure entails the payment of fees in the form of lawyer's fees (if the applicant is represented by a lawyer) and actual court costs. The amount is set by Regulations published periodically by the Supreme Court of Cyprus. The exact cost depends on the duration and/or complexity of the proceedings. If the applicant has insufficient financial means, he/she can apply for free legal aid pursuant to Law 165(I)/2002, as amended.

8 What kind of maintenance is likely to be granted by the court? How is the amount of maintenance calculated? Can the court's decision be revised, if living costs or family circumstances change? If yes, how (e.g. by means of an automatic indexation system)?

The type of maintenance granted by the court is from parent to child, child to parent and former spouse to former spouse. The amount of maintenance is calculated, taking the creditor's needs and the financial means of the debtor into consideration. Maintenance includes everything necessary for the creditor's subsistence and welfare and, additionally, his/her education costs, if relevant (Article 37 of Law 216/90).

The maintenance decree can be revised by the court following a request by the applicant (or his/her representative) if the creditor's living costs or family circumstances change, or if the maintenance debtor's conditions change (Article 38(1) of Law 216/90).

Apart from changes in circumstances or costs, the Law (Article 38(2) of Law 216/90) provides for a ten percent (10%) automatic increase in maintenance every twenty-four (24) months unless the Court decides otherwise.

9 How and to whom will the maintenance be paid?

Maintenance is paid monthly to the creditor or the creditor's guardian or their lawyer, by bank transfer, cheque or cash.

10 If the person concerned (debtor) doesn't pay voluntarily, what action can be taken in order to force him/her to pay?

If the debtor under decree refuses to pay, the maintenance allowance is collected in a way similar to that of collecting penalty payments. The procedure includes the issuing of a writ of detention (Article 40 of Law 216/90).

11 Please describe briefly any limitations on enforcement, in particular debtor protection rules and limitation or prescription periods in your enforcement system

In accordance with Article 9(3) of Law 232/91, the debtor is released from the obligation to pay the amount due by virtue of a maintenance decree for a period exceeding two years.

Any period of absence of the maintenance debtor from the Republic of Cyprus is excluded from the calculation of the above time period.

12 Is there an organisation or an authority which can help me to recover maintenance?

There is no such authority or organisation on a national level.

13 Can organisations (government or private) advance the payment of maintenance wholly or partly in the debtor's place?

Please see the answer above.

14 If I am in this Member State and the debtor has his/her residence in another country:

14.1 Can I obtain the assistance of an authority or private organisation in this Member State?

Yes, in that case the applicant/creditor can seek assistance from the Central Authority of the Republic, i.e. the Ministry of Justice and Public Order.

14.2 If so, how can that authority or private organisation be contacted?

The person concerned or his/her lawyer can contact the Central Authority by telephone, in writing (by letter, fax or e-mail) or in a face to face meeting.

15 If I am in another country and the debtor is in this Member State:

15.1 Can I address a request directly to such an authority or private organisation in this Member State?

If the applicant/ creditor is in another country and the debtor is in Cyprus, the applicant can seek assistance from the Ministry of Justice and Public Order, being the Central Authority, via the relevant Central Authority in the country where he/she is, but not directly.

Alternatively, he/she can resort directly to the court via his/her lawyer.

15.2 If so, how can that authority or private organisation be contacted and what kind of assistance can I receive?

In the specific case, the Central Authority of Cyprus can be contacted by telephone or in writing (via a letter, fax

or email) and provide assistance for forwarding a written request for maintenance to the competent national court.

16 Is this Member State bound by the 2007 Hague Protocol?

Yes, Cyprus is bound by the 2007 Hague Protocol.

17 If this Member State is not bound by the 2007 Hague Protocol, which law will be applicable to the maintenance claim according to its private international law rules? What are the corresponding private international law rules?

Not applicable.

18 What are the rules on access to justice in cross-border cases within the EU following the structure of Chapter V of the Maintenance Regulation?

Upon implementation of the new Regulation on maintenance (Council Regulation (EC) No 4/2009) applications are now forwarded directly to the competent Court of the Republic through the Central Authority of the Republic.

Access to justice is also facilitated through the provision for legal aid both under the national legislation, i.e. Law 165(I)/2002, and within the context of the relevant EU Directive on legal aid in cross-border disputes.

19 What are the measures adopted by this Member State in order to ensure the functioning of the activities described in Article 51 of the Maintenance Regulation?

To ensure the correct implementation of Article 51, the Central Authority cooperates closely with other competent authorities of the State with a view, *inter alia*, to obtaining the information requested, such as the debtor's residential and business address, revenues, etc., detecting the debtor and serving court documents to the debtor by obtaining and providing to the court authorities a valid address for service.

Despite the provision for legal aid, those cited above, as well as the forwarding of requests under Regulation (EC) No 4/2009, are provided to the applicants via the Central Authority, thus, no legal aid issue arises.

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