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Legal aid

 Estonia

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European Judicial Network
(in civil and commercial
matters)

1 What costs are involved in legal proceedings and who normally has to bear them?

In civil and administrative cases, the costs of the proceedings are made up of the State fee and security, the costs relating to giving evidence (e.g. costs relating to the summoning of a witness and expert witness costs), and the costs incurred by the parties to the proceedings and their representatives (legal fees, travel expenses, etc.). The costs of the proceedings must be borne in the course of the proceedings by the party who requests the procedural act involving the costs. Thus, when bringing an appeal or complaint, the claimant or applicant must pay the State fee, while witness or expert's fees must be paid in advance by the party who wishes to summon a witness or bring in an expert. Each party to the proceedings must pay the fees of their representative.

At the end of the proceedings, the unsuccessful party is usually ordered to reimburse the costs incurred by the opposing party in the course of the proceedings. In civil proceedings, dismissal of an appeal normally entails an obligation on the claimant to reimburse the defendant for the costs they have incurred in connection with the court proceedings; conversely, if the appeal is successful, the defendant is ordered to pay the costs incurred by the claimant. In cases where a compromise reached, the costs are usually shared according to that compromise.

2 What exactly is legal aid?

State legal aid

State legal aid is the provision, at the expense of the State, of a lawyer's legal services to represent a person in court or other proceedings, to draw up a legal document or to provide other legal advice or representation. State legal aid is intended primarily for natural persons who, owing to their financial situation, are unable to pay for professional legal services. State legal aid is provided only by lawyers. When deciding on an application for State legal aid, the court assesses the applicant's financial situation, the prospects of success of their claim (complaint, action, application) and the significance of the case at hand for the applicant. A representative is appointed under the State legal aid scheme, irrespective of the applicant's financial situation, in cases where such an appointment is mandatory (e.g. for suspects or accused persons in criminal proceedings), but also in cases where the court considers that this is necessary to safeguard the interests of the person.

The conditions and procedure for obtaining State legal aid are laid down in the State-funded Legal Aid Act (*riigi õigusabi seadus*) (<https://www.riigiteataja.ee/en/eli/518122023002/consolide>).

In addition, initial advice is provided, with the support of the State, to all people living in Estonia with an average gross income of up to €1 200 in the quarter preceding their application. An exception to that are family cases concerning the rights of a child, where the gross-income threshold is €2 000. The income cap also does not apply to legal advice for persons with special needs and elderly persons provided on a contractual basis by the Estonian Chamber of People with Disabilities (*Puuetega Inimeste Koda*) and the Estonian Association of Pensioners' Societies (*Eesti Pensionäride Ühenduste Liit*). More information on State-supported legal aid can be found on the website of the Ministry of Justice (*Justiitsministeerium*)

3 What are the requirements for legal aid to be granted?

State legal aid

A natural person is granted State legal aid if their financial situation at the time they require legal aid means that they are unable to pay for competent legal services or if they are able to pay for legal services only partially or in instalments or if their financial situation does not allow them to meet basic subsistence needs after paying for legal services.

State legal aid is granted either without an obligation to reimburse the State legal aid fee and the costs of State legal aid (i.e. free of charge) or subject to partial or full reimbursement (i.e. the recipient must subsequently reimburse the costs of State legal aid in part or in full if the costs are not borne by another person or the State). When deciding on an application for State legal aid, the court assesses the applicant's financial situation, the prospects of success of their claim (complaint, action, application) and the significance of the case at hand for the applicant. Vulnerable people and other people in vulnerable situations generally receive State legal aid at the full cost of the State.

A representative is appointed under the State legal aid scheme, irrespective of the applicant's financial situation, in cases where such an appointment is mandatory (e.g. for suspects or accused persons in criminal proceedings), but also in cases where the court considers that this is necessary to safeguard the interests of the person.

Legal aid may also be granted – for the purpose of achieving the objectives laid down in their statutes in the field of environmental protection or consumer protection or for other overriding reasons in the public interest – to legal persons who, owing to their financial situation, are unable to pay for legal services.

State legal aid is not granted if:

- 1) the applicant is able to defend their own rights;
- 2) the applicant does not have the right which they are applying for legal aid to protect;
- 3) the applicant is able to bear the costs of legal services from their existing and easily sellable property, with the exception of the property specified in Section 14(2) of the State-funded Legal Aid Act;
- 4) the costs of the legal services are not expected to be more than twice the applicant's average monthly income, calculated on the basis of the average monthly income for the 4 months prior to the application being submitted, from which taxes, compulsory insurance payments, costs to meet legal maintenance obligations and reasonable costs relating to housing and transport are deducted;
- 5) it is clear from the circumstances that there is little chance of the applicant being able to defend their rights;
- 6) the application is made in order to submit a claim for compensation of non-material damage and there is no compelling public interest in the case;
- 7) the dispute concerns the applicant's business activities and has no impact on their rights not relating to those business activities;
- 8) the application is made to protect a trade mark, a patent, a utility model, an industrial design, integrated circuit topographics or some other form of intellectual property, with the exception of rights arising from the Copyright Act (*Autoriõiguse seadus*);
- 9) the application is made in a case in which the applicant has a clear joint interest with a person who is not entitled to State legal aid;
- 10) the application is made to defend a right transferred to the applicant and there is reason to believe that the right was transferred to the applicant in order to obtain State legal aid;

11) provision of legal services is guaranteed to the applicant under a legal costs insurance contract or compulsory insurance;

12) the potential gain to the applicant from the case is unreasonably small in comparison with the expected cost to be borne by the State to provide legal aid.

Initial advice

As of 1 June 2023, people living in Estonia with an average gross income of up to €1 200 in the quarter preceding their application qualify for State-supported initial advice. An exception to that are family cases concerning the rights of a child, where the gross-income threshold is €2 000. The income cap also does not apply to legal advice for persons with special needs and elderly persons provided on a contractual basis by the Estonian Chamber of People with Disabilities (*Puuetega Inimeste Koda*) and the Estonian Association of Pensioners' Societies (*Eesti Pensionäride Ühenduste Liit*).

4 Is legal aid granted for all types of proceedings?

State legal aid

State legal aid can be obtained in all judicial and extra-judicial proceedings and generally for all legal questions, with a few exceptions. Free State legal aid is not granted:

- for the purposes of submitting a claim for compensation of non-material damage and where there is no compelling public interest in the case;
- if the dispute concerns the applicant's business activities and has no impact on their rights not relating to those business activities;
- the application is made to protect a trade mark, a patent, a utility model, an industrial design, integrated circuit topographics or some other form of intellectual property, with the exception of rights arising from the Copyright Act.

Initial advice

Initial advice is provided in all areas of law, with a few exceptions.

Legal advice does not include representation before a court, including the drafting of a judicial document, except for:

- 1) family matters relating to the rights of a child;
- 2) submission of an application for an expedited payment order procedure.

5 Are there special procedures in cases of need?

There are no such special procedures in place. The existing options for receiving free legal aid also cover urgent cases.

6 Where can I obtain a legal aid application form?

State legal aid

The application form for State legal aid can be obtained at:

[State legal aid application form | 91.3 KB | rtf](#)

[Form for declaring applicant's financial situation | 104.24 KB | rtf](#)

The application form for State legal aid can also be found in the 'State Legal Aid' section of the Estonian Bar Association (*Eesti Advokatuur*) website: <https://www.riigioigusabi.ee/dokumendid-2>.

Initial advice

To make an appointment for initial legal advice, you need to contact HUGO.legal, sign up as a customer and pay a personal fee of €5. Contact details can be found at: <http://www.juristaitab.ee/>. You can also post your question on the [forum](#) on the same page. To submit a question, you must register using your Estonian ID card.

7 Which documents need to be submitted with the legal aid application form?

A natural person applying for State legal aid must include with their application a signed statement of their financial situation, and if possible, other evidence of this situation. A suspect in criminal proceedings requesting the appointment of a lawyer does not have to include a statement of their financial situation.

If a person's residence is not in Estonia, they must append to their application a statement concerning their income and the income of their family members during the last 3 years, issued by the competent authority of the person's country of residence. If this statement cannot be submitted for reasons independent of the applicant, the provision of State legal aid may be decided upon without the statement.

The form for declaring one's financial situation is available on the website of the Ministry of Justice and at all courts and law firms.

8 Where do I submit my application for legal aid?

Applications for State legal aid are generally submitted to a court. The specific court to which an application is to be submitted is determined as follows:

- a) Applications for State legal aid as a party to judicial proceedings in a civil, administrative or misdemeanour case are submitted to the court that is dealing with the case or that has the jurisdiction to deal with it.
- b) If an applicant is requesting State legal aid to prepare a statement of claim, a statement of petition or a complaint in administrative court proceedings or misdemeanour proceedings, they submit their application to the court competent to hear the claim, statement of petition or complaint.
- c) Applications for State legal aid for representation in pre-trial civil proceedings or extra-judicial misdemeanour proceedings or for the drafting of a legal document or other legal advice or representation are submitted to the county court of the place where the applicant is domiciled or to the county court of the place where the legal services in question are assumed to be provided. If the applicant is not resident in Estonia, they may also submit their application to the county court in whose jurisdiction they are present.
- d) Applications for State legal aid for representation in administrative proceedings are submitted to the administrative court of the place where the applicant is domiciled or to the administrative court of the place where the legal services in question are assumed to be provided.
- e) If the participation of a lawyer throughout criminal proceedings is not mandatory and the suspect has not selected a lawyer but wishes to be represented by one, they submit an application for State legal aid to the investigating authority or the Prosecutor's Office.
- f) If a person applies for State legal aid as an injured party in criminal proceedings, a civil defendant or a third party, the court conducting the proceedings or, in pre-trial proceedings in a criminal case, the county court competent to conduct proceedings in the criminal case in question will decide whether they should be granted State legal aid.
- g) If a person applies for State legal aid for review proceedings, the Supreme Court decides on whether to grant them State legal aid.
- h) Applications for State legal aid for representation in enforcement proceedings are submitted to the court competent to hear complaints regarding the actions of an enforcement agent conducting the enforcement proceedings.

9 How do I find out whether I am entitled to legal aid?

Information on State legal aid and initial advice can be obtained from the courts and law firms. Operators of law firms must ensure that those in need of State legal aid are given explanations regarding the grounds and procedures for obtaining State legal aid as provided for in the State-funded Legal Aid Act during the firm's working hours, free of charge. Organisers of initial advice are also obliged to advise those in need of assistance on the grounds and procedures for obtaining State legal aid and, where necessary, assist with the correct completion of applications for legal aid, free of charge.

Information on the options for State-supported legal aid can be found on the website of the Ministry of Justice (*Justiitsministeerium*) (<https://www.just.ee/kohtud-ja-oigusteenused/oigusabi/riigi-toetatud-oigusabi>).

10 What should I do, if I am entitled to legal aid?

State legal aid

In order to obtain State legal aid, applications (point 6) must generally be submitted, together with a declaration of the applicant's financial situation (point 7), to the court hearing the application for State legal aid (point 8).

Applications for State legal aid should be submitted in Estonian or another language that is common in Estonia (translation is arranged by the case handler). The application may also be submitted in English if the applicant for legal aid is a natural person who is resident in another Member State of the European Union or who is a citizen of another EU Member State, or a legal person based in another EU Member State.

In proceedings where the participation of a lawyer is required by law, a person does not have to do anything to receive State legal aid – unless the person has employed a lawyer themselves, the official conducting the proceedings is required to arrange the appointment of a lawyer for the person and the person does not have to submit an application.

Initial advice

To make an appointment for initial legal advice, you need to contact HUGO.legal, sign up as a customer and pay a personal fee of €5. Contact details can be found at: <http://www.juristaitab.ee/>. You can also post your question on <http://www.juristaitab.ee/> the forum on the same page. To submit a question, you must register using your Estonian ID card.

11 Who chooses my lawyer, if I am entitled to legal aid?

State legal aid

At the request of the investigating authority, the Prosecutor's Office or the court, the Estonian Bar Association (*Eesti Advokatuur*) appoints a lawyer to provide State legal aid. In general, an individual does not have the right to choose which lawyer will provide them State legal aid. However, a person has the right to apply for State legal aid to be provided by a particular lawyer if the lawyer has agreed to provide State legal aid. In that case, the name of the lawyer who granted their consent must immediately be indicated in the application for State legal aid.

The court, the Prosecutor's Office and the investigating authority do not have the power to agree with a lawyer on the provision of State legal aid or to appoint a lawyer to provide State legal aid.

Initial advice

In the case of initial advice, the person in need of assistance may choose their own lawyer on the basis of their location and the area of advice or find a lawyer's office.

12 Does legal aid cover all the costs of the proceedings?

No. State legal aid covers travel and accommodation expenses incurred by a lawyer or an operator of a law firm

in connection with the provision of State legal aid, translation costs and costs related to submitting evidence. In addition, the court may order that a person – upon their request – be relieved, in whole or in part, of the costs of the proceedings as procedural aid.

13 Who bears the other costs, if I am entitled only to limited legal aid?

In the case of State legal or procedural aid subject to partial compensation, the costs are to be borne by the unsuccessful opposing party, another person or the State.

14 Does legal aid also cover appeals?

Yes. State legal aid covers appeals, appeals in cassation, appeals against rulings and review proceedings.

15 Can legal aid be withdrawn before the proceedings are concluded (or even revoked after the proceedings have terminated)?

Where a court, an investigating authority or the Prosecutor's Office has decided to grant State legal aid, it may, at the request of the lawyer providing State legal aid or on its own initiative, reassess at any time, in accordance with the procedure laid down in the State-funded Legal Aid Act, whether the grounds set out in the Act for granting State legal aid to the applicant in question continue to exist and, if they cease to do so, terminate the granting of State legal aid.

If State legal aid ceases to be granted, the lawyer providing State legal aid is released from the obligation to do so, and the court determines, at the request of the lawyer, the amount of their legal aid fee and the extent to which the costs of State legal aid are to be reimbursed to them. At the same time, the court determines the obligation of the recipient of State legal aid to reimburse the State, in whole or in part, the amount to be paid to the lawyer.

16 Can I contest a refusal to give legal aid?

An order refusing State legal aid may be appealed against in accordance with the procedure laid down in the legislation governing the relevant court proceedings.

17 Does the request for legal aid have the effect to suspend the limitation period?

No.

More information

For more information on the Estonian free legal-aid system, please contact the Ministry of Justice at the following address:

Ministry of Justice (*Justiitsministeerium*)

Suur-Ameerika 1, 10122 Tallinn

Tel.: (+372) 620 8100

Email: info@just.ee

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