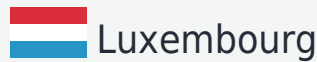


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How to bring a case to court



Content provided by:



European Judicial Network
(in civil and commercial
matters)

1 Do I have to go to court or is there another alternative?

Mediation is an alternative dispute resolution procedure which may avoid having to take a case to court.

2 Is there any time limit to bring a court action?

Time limits for bringing court actions vary according to the case.

3 Should I go to a court in this Member State?

See '[Which country's court is responsible? - Luxembourg](#)'.

4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

See '[Which country's court is responsible? - Luxembourg](#)'.

5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

See '[Which country's court is responsible? - Luxembourg](#)'.

6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

The answer depends on the amount of the claim and its subject-matter.

Broadly speaking, the following applies, although specific exceptions are laid down by law:

- If the claim is for no more than €15 000, the case will normally be heard by a justice of the peace (*juge de paix*). In these courts, you may appear in person or be represented either by a lawyer or by another person to whom you have given a special authorisation (*mandat*).
- If the claim is for more than €15 000, the case will normally be heard by the district court (*tribunal d'arrondissement*). Here you must be represented by a full lawyer (*avocat à la cour*), except in applications for interim measures (*actions en référé*), actions under commercial law, where you may be assisted or represented or may appear in person, and actions before the family court (*juge aux affaires familiales*) other than divorce. You must be represented by a full lawyer before the Court of Appeal (*Cour d'appel*), which forms part of the Supreme Court of Justice (*Cour supérieure de justice*).
- In some cases justices of the peace have jurisdiction even if the amount involved is more than €15 000;

these include disputes between landlord and tenant and applications for maintenance (*pensions alimentaires*) except when connected with an application for divorce or separation. An action before the justice of the peace is usually brought by having a summons (*citation*) served on the other party by a bailiff (*huissier de justice*). The summons has to comply with certain formal requirements intended in particular to ensure that the rights of the defence are respected. In some cases the parties may bring the action themselves, without involving a bailiff, by making a written application (*requête*) to the justice of the peace (which is a simplified procedure less costly than going to the district court). In either case you may appear in court in person or be represented either by a lawyer or by another person to whom you have given a special authorisation (*mandat*).

7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

The answer depends on which of the above categories your case falls into.

For claims for up to €15 000, you can apply to the court of the justice of the peace that has jurisdiction, either directly by written application (*requête*) or indirectly by a summons (*citation*) served by a bailiff. In practical terms you submit your application to the clerk of the court (*greffier en chef*).

For claims for more than €15 000, you will normally have to instruct a lawyer, who will arrange for a bailiff to serve a summons (*assignation*) on the opposing party on behalf of his or her client. The lawyer will lodge the papers initiating proceedings with the competent district court or the Supreme Court of Justice.

8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

French, German or Luxembourgish may be used, although specific provisions apply to certain types of case.

Proceedings are initiated by serving a summons (*citation* or *assignation*), except in cases in which a simple application (*requête*) may be made to the court. With a few rare exceptions for certain cases heard by justices of the peace, applications to the courts must be made in writing. Documents sent by fax or email are not admissible.

9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

In some specific cases (e.g. applications for orders for payment of sums due or unpaid invoices) there are forms that can be completed. As a rule, summonses to appear before the justice of the peace, applications and summonses for the district court and appeals brought before the higher courts must include certain information and follow a specific format, failing which they will be declared null and void. There are no ready-made forms for these purposes.

There are also forms for applications based on Community legislation. These include applications for European orders for payment, based on Regulation (EC) No 1896/2006, and applications under the European small claims procedure, based on Regulation (EC) No 861/2007.

10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

As a rule court fees are payable when the action ends. The court may order the losing party to pay the winning party a procedural indemnity (*indemnité de procédure*) if the court considers that it would be inequitable to leave the winning party to bear all of the fees and expenses they have incurred. The court may also order one or more of the parties to the proceedings to pay a security or advance (e.g. where the court calls for an expert opinion).

The legal fees payable to lawyers by their clients are a matter for agreement between them. In practice, it is

customary to pay the lawyer an advance on fees.

11 Can I claim legal aid?

See '[Legal aid - Luxembourg](#)'.

12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

- Applicants who represent themselves, where this is permitted by law, will receive a reply from the court.
- Where a case is presented by a lawyer on behalf of his or her client, the court will reply to the lawyer, as the client's legal representative. The lawyer may provide the client with details of the timetable of events where these are known or foreseeable.

13 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

See the answer to the previous question.

In written proceedings the time allowed to enter an appearance is generally laid down by law; the court may also set time limits especially for the hearing of either party or a third party in person. The time limits laid down by law vary depending on the court and on whether the defendant lives in Luxembourg or abroad. When the proceedings are oral, the applicant generally has to give the defendant a precise date on which to appear in court.

Related links

<http://www.legilux.lu/>

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