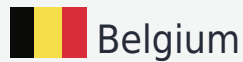


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Legal aid



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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?

'Expenses' in legal jargon cover several items provided for in Article 1018 of the Judicial Code (*code judiciaire / gerechtelijk wetboek*).

Expenses include:

1. miscellaneous court and registration fees and stamp duty paid before the Stamp Duty Code (*Code des droits de timbre / Wetboek der zegelrechten*) was repealed;
2. the cost of judicial documents and related emoluments and salaries;
3. the cost of providing a copy of a judgment;
4. the costs of any measures of inquiry, particularly witness and expert fees;
5. travel and subsistence expenses for judges, registrars and parties required to travel by order of the court, and the costs of documents drawn up solely for the proceedings;
6. the procedural indemnity referred to in Article 1022;
7. the fees, emoluments and costs of a mediator appointed pursuant to Article 1734;
8. the contribution referred to in Article 4(2) of the Act of 19 March 2017 setting up a budget fund for second-line legal aid (*aide juridique de deuxième ligne / juridische tweedelijnsbijstand*).

The procedural indemnity is the flat-rate contribution to the costs and fees of lawyers which the successful party may claim against the unsuccessful party.

Who can apply to have a procedural indemnity granted?

The procedural indemnity, provided for under Article 1022 of the Judicial Code, is a flat-rate contribution towards the successful party's legal costs and fees.

If requested by one of the parties, possibly on the basis of an intervention by the court, the latter may, by a specially reasoned decision, either reduce the indemnity or increase it, without this amount being greater than the maximum or less than the minimum prescribed by the King. In its assessment, the court will take account of:

- the unsuccessful party's financial capacity, in order to reduce the amount of the indemnity;
- the case's complexity;
- agreed contractual compensation for the successful party;
- the manifestly unreasonable nature of the situation.

2 What exactly is legal aid?

Legal aid brings together a number of concepts:

- It entitles any person to a free initial legal consultation as part of front-line legal aid (*aide juridique de*

première ligne / eerstelijnsbijstand). This consultation will be provided by a qualified lawyer.

- It also allows certain categories of persons to receive free assistance from a lawyer in dealing with any kind of legal case (second-line legal aid). These lawyers are voluntary. They provide their clients with the same legal services as when they charge a fee (advice, assistance and representation in ordinary, administrative or mediation proceedings).
- Legal aid dispenses those parties, whose income is too low to meet the costs of court or out-of-court proceedings, from paying all or part of their registration, registry and certified copy fees. It also ensures that public and ministerial officials (bailiffs, notaries, etc.) and technical advisers (when conducting judicial appraisals) or mediators do not charge the parties involved any fees for the assistance they provide.

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

In order to obtain second-line legal aid, two conditions must be satisfied:

- The claim must not be manifestly inadmissible or manifestly unfounded.
- The financial situation must correspond to the [access conditions](#) set out in Articles 508/13/1 to 508/13/4 (as inserted by the Law of 31 July 2020 amending the Judicial Code in order to improve access to second-line legal aid and legal aid by increasing the relevant income ceilings).

Entirely free legal aid:

Single person: net monthly income of less than EUR 1 426.

Single person with dependants or cohabiting with a spouse or with any other person with whom they form a household: net monthly household income of less than EUR 1 717.

Partially free legal aid:

Single person: net monthly income of between EUR 1 426 and EUR 1 717.

Single person with dependants or cohabiting with a spouse or with any other person with whom they form a household: net monthly household income of between EUR 1 717 and EUR 2 007.

The beneficiary will be expected to pay no more than EUR 125.

The amounts are effective as of 1 September 2022.

Legal aid is also granted to persons who can prove that they do not have sufficient means of subsistence. The decision of the legal aid office (*Bureau d'Aide Juridique / Bureau voor Juridische Bijstand*) granting the entirely or partially free second-line legal aid constitutes proof of insufficient means of subsistence.

4 Is legal aid granted for all types of proceedings?

Yes.

5 Are there special procedures in cases of need?

Yes.

In urgent cases, the legal aid office may provisionally dispense the applicant entirely or partially from fees without them having to produce all or part of the supporting documents. The applicant must submit the supporting documents within a time-limit set by the legal aid office of no more than 15 days from the date of the decision. If the documents are not produced, the legal aid terminates automatically.

The legal aid office assesses the urgency.

An application for entirely or partially free second-line legal aid is submitted orally or in writing by the applicant or their lawyer to the legal aid office with territorial jurisdiction.

The application may also be submitted through the competent authorities (the international civil cooperation

service of the Federal Public Service for Justice), within the meaning of Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

6 Where can I obtain a legal aid application form?

The legal aid office in your constituency can be contacted.

- French-speaking offices: <https://avocats.be/fr/bureaux-daide-juridique-baj>.

- Dutch-speaking offices: <https://www.advocaat.be/nl/gratis-rechtsbijstand/tweedelijnsbijstand>

Once contacted, the competent legal aid office will send out the legal aid application form to be filled in.

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

Supporting documents vary according to a person's relevant category. If you live with one or more adults, documents providing proof of those persons' incomes must also be provided.

Additional documents may be requested in order to verify that the eligibility conditions for free legal aid are satisfied.

Caution: some documents are valid for a limited period. They may be no older than 2 months from the date on which your legal aid allocation request is submitted.

1) You work and are employed

- household composition certificate, valid for 2 months;
- latest tax assessment;
- latest two salary/pay slips (full working months);
- salary/pay slips for the current year with holiday bonuses and allowances;
- certificate from the national holiday allowance office (manual worker);
- certificate of income for the last 2 months (temporary agency worker).

2) You work and are self-employed

- household composition certificate, valid for 2 months;
- latest tax assessment;
- accountant's certificate showing your net average income for the last 3 months;
- latest VAT return.

3) You are unfit for work

- household composition certificate, valid for 2 months;
- latest tax assessment;
- certificate from the health insurance fund (*mutuelle / ziekenfonds*) indicating the allowances paid during the last 2 months;
- annual certificate (incapacity for one year or more);

4) You are a pensioner

- household composition certificate, valid for 2 months;
- latest tax assessment;
- certificate from the national pensions office (*Office national des pensions / Rijksdienst voor pensioenen*), valid for 2 months.

5) You are unemployed

- https://bajbruxelles.be/images/documents/demande_composition_menage.pdf household composition

certificate, valid for 2 months;

- latest tax assessment;
- certificate of unemployment benefits received over the previous 2 months.

(6) You are in receipt of CPAS/OCMW (*Centre public d'action sociale / Openbaar Centrum voor Maatschappelijk Welzijn*) income support

- CPAS/OCMW certificate, valid for 2 months, stating the type and amount of support.

7) You are in receipt of an elderly person's income guarantee (*Garantie de revenus aux personnes âgées - GRAPA / Inkomensgarantie voor ouderen - IGO*)

- certificate from the national pensions office specifying the GRAPA/IGO amount.

8) You are entitled to a disability allowance

- certificate from the Federal Public Service for Social Security (*SPF Sécurité Sociale / FOD Sociale Zekerheid*) mentioning the allowances for the last 2 months.

9) You live in rented social housing

- social rent calculation sheet.

10) You are in a collective debt settlement procedure

- household composition certificate, valid for 2 months;
- latest tax assessment;
- certificate, valid for 2 months, from the debt mediator mentioning the amount they pay you, the available amount of family allowances if these are included, and the amount of the fixed costs paid.

11) You are under 18 years of age

- a copy of your identity card or other official document proving that you are a minor.

(12) You are applying for a residence permit

- any document attesting to illegal residence (annexes, obligation to leave the territory, decision refusing residence, passport, etc.).

13) You are in custody

- certificate of detention.

8 Where do I submit my application for legal aid?

If you know of a practising lawyer who offers free second-line legal aid, you may contact them directly. If they agree to take on your case, they will ask the legal aid office to appoint them.

If you do not know of any lawyers who offer free legal aid, you can make an appointment at the competent local legal aid office to seek advice from a lawyer.

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

You will be informed of the legal aid office's decision within 15 days of the request. Any rejection decision must set out the reasons for the rejection. The notification must contain the relevant information for lodging the intended appeal.

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

You should contact your lawyer or the lawyer appointed by the legal aid office.

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

The legal aid office appoints a lawyer who is on the list of legal aid volunteers.

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

The legal aid covers bailiffs' or experts' fees, postage and registration costs. As with second-line legal aid, it is not automatic and must be requested from the legal aid office of the court hearing the case (Article 664 et seq. of the Judicial Code).

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

If partially free legal aid is provided, this does not mean that only certain services/costs are covered. It simply means that the beneficiary of partially free legal aid will be expected to pay no more than EUR 125, unlike the beneficiary of entirely free legal aid who need not pay anything. Beneficiaries of entirely or partially free legal aid receive the same services.

14 Does legal aid also cover appeals?

Yes.

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

Yes.

If the conditions change under which the beneficiary is eligible for either entirely or partially free second-line legal aid, the beneficiary must immediately inform their lawyer, who will notify the legal aid office accordingly.

The legal aid office may also terminate legal aid on a lawyer's reasoned application if the lawyer considers that their involvement does not offer any added value.

Other scenario for withdrawal: where the beneficiary manifestly fails to cooperate in the defence of their interests (such as failing to respond to requests from their lawyer).

16 Can I contest a refusal to give legal aid?

If the application is rejected, it is possible to bring an action before the labour court by written or oral application (to the court registry). The action must be brought within 1 month of being notified of the legal aid office's decision.

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

If partially free legal aid is provided, this does not mean that only certain services/costs are covered. It simply means that the beneficiary of partially free legal aid will be expected to pay no more than EUR 125, unlike the beneficiary of entirely free legal aid who does not have to pay anything. Beneficiaries of entirely or partially free legal aid receive the same services.

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