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French

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### Costs

#### Luxembourg

On this page, you will find information on court costs in the Grand Duchy of Luxembourg.

#### Regulatory framework governing fees of legal professions

##### Bailiffs

The fees charged by bailiffs (*huissiers de justice*) are regulated by a Grand-Ducal Regulation, the amended Grand-Ducal Regulation of 24 January 1991 **setting rates for bailiffs**. You will find information on this subject on the website of the [Bailiffs Association of the Grand Duchy of Luxembourg](#).

##### Lawyers

By virtue of Article 38 of the amended Act of 10 August 1991 regarding the profession of lawyer (*avocat*), **a lawyer's total fees and professional expenses are set by the lawyer**. When determining their fees, lawyers take the different elements of the case file into consideration, such as the importance of the case, the level of difficulty, the result achieved and the client's financial situation. Where the amount calculated is found to be excessive, it may be lowered by **the Bar Council** (*Conseil de l'Ordre*), which will first examine the different elements of the case in question. You will find information on this subject at the website of the [Luxembourg Bar](#).

##### Fixed court costs

##### Fixed court costs in civil proceedings

There are no fixed costs involved in bringing a dispute before a civil court other than bailiffs' and lawyers' fees. In principle, **no court costs are incurred in the civil courts**. Following judgment, there may be costs incurred to enforce the decision at the request of the successful party.

##### Court costs in criminal proceedings

##### Fixed costs payable by all parties to a criminal proceeding

The fee for an authentic copy of a criminal judgment is EUR 0.25 per page. There are **no other expenses**, apart from copies of criminal court records, which are usually charged at the same rate per page copied for the lawyer requesting it.

##### When must a party pay fixed costs?

Pursuant to Article 59 of the Code of Criminal Procedure (CIC), 'A civil party who initiates a criminal prosecution [i.e. by lodging a criminal complaint] must, unless receiving legal aid, deposit the amount deemed necessary to cover the **costs of the proceedings** with the court registrar.

**The investigating judge** (*juge d'instruction*) shall issue an order recording the filing of the complaint. The judge **shall determine the amount of the deposit** on the basis of the financial means of the civil party and **shall set the deadline by which it must be paid**, failing which the complaint shall not be accepted. The judge may, however, waive the requirement for a deposit for civil parties lacking sufficient means.'

However, this procedure is specific to criminal complaints lodged with the investigating judge by parties who also wish to bring a civil action. Complaints and reports of offences made to public prosecutors, and applications made to a trial judge by parties asking to be treated as civil parties (when a complaint is lodged during the proceedings, at the time of the court hearing) **do not incur court costs**.

##### Court costs for constitutional cases

There are **no specific fixed fees** in this field.

##### What prior information should be provided by a legal representative (lawyer)?

##### Information concerning the rights and obligations of the parties

According to the principles of the Amended Internal Regulation of 16 March 2005 of the Luxembourg Bar Council, legal representatives (lawyers) are **obliged to provide prior information** to parties contemplating proceedings. This information must place them in a position to understand their rights and obligations, their chances of success and the costs they might have to pay, including costs incurred should they lose the trial.

##### Where can I find additional information on court costs?

##### Where can I find information on court costs in Luxembourg?

Mainly in the legislation and Internet sources mentioned,

At the Reception and Legal Information Service of the Public Prosecutor's Office (*Parquet général*),

Through special free consultations on women's rights organised by the Public Prosecutor's Office.

##### In what languages can information on court costs in Luxembourg be found?

In French for legislation;

in English, German, French and Luxembourgish for other information, including information provided orally by the reception services and bodies mentioned above.

##### Where can I find information on mediation?

Information on mediation is available from the [Luxembourg Association of Mediation and Professional Mediators](#) (ALMA Asbl), the [Mediation Centre of the Luxembourg Bar](#) (CMBL) and the [Ministry of Justice](#).

##### Legal aid

##### What is the maximum income threshold for obtaining legal aid in civil matters or as a defendant in criminal proceedings?

##### What are the circumstances in which an application can be made for legal aid and what conditions apply?

Natural persons with insufficient means are entitled to **legal aid to defend their interests** in the Grand Duchy of Luxembourg, provided they are Luxembourg nationals, foreign nationals authorised to settle in the country, nationals of a Member State of the European Union, or foreign nationals deemed equivalent to Luxembourg nationals for legal aid purposes by virtue of an international treaty.

Legal aid may also be granted to foreign nationals whose home or residence is in another Member State of the European Union, with the exception of Denmark, for any civil or commercial proceedings in relation to **cross-border cases** within the scope of Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border cases by establishing minimum common rules relating to legal aid for such disputes.

Legal aid may also be granted in civil or criminal cases to persons mentioned in the first paragraph whose usual home or residence is in Luxembourg in order to obtain the legal advice of a lawyer in Luxembourg, including the preparation of an **application for legal aid to be submitted in another Member State** of the European Union, until such time as the application for legal aid has been received there, in accordance with the aforementioned Council Directive 2003/8/EC.

Legal aid may also be granted to any other **foreign national** with insufficient means in proceedings relating to their **right to asylum, entry, residence, settlement or removal**. Where such foreign nationals are considered to qualify for the right to have a lawyer designated by the Chairman (*Bâtonnier*) of the Bar by virtue of other legislation, they receive legal aid, limited to the lawyer's allowance, provided only that they can show they have insufficient means.

**Means testing** of natural persons applying for legal aid is based on their total gross income and wealth and that of the members of the household, in accordance with Articles 19(1) and 20 of the amended Act of 29 April 1999 establishing the right to a guaranteed minimum income, and within the limits determined in Article 5(1), (2), (3), (4) and (6) of that Act. However, the means of other people living in the household are not taken into consideration if the proceeding involves a dispute between spouses or persons usually living together in the same home, or where there is a conflict of interest between them regarding the subject-matter of the dispute, making a separate evaluation of financial means necessary.

If the applicant is a **minor** implicated in legal proceedings, entitlement to legal aid is granted to him or her independently of the financial situation of the parents or other members of the household, without prejudice to the right of the State to request the reimbursement of the expenses incurred for legal aid for the minor from a father or mother possessing sufficient means.

Legal aid may also be granted to persons who would be excluded on the basis of means testing if serious reasons relating to the social, family or material situation of the applicant justify such treatment.

#### **What are the implementing arrangements for legal aid?**

The arrangements for implementing legal aid are laid down in a Grand-Ducal Regulation.

Legal aid is granted in **extra-judicial and judicial matters, in non-contentious or contentious matters, to plaintiffs or defendants**.

It **applies to any action** brought before the ordinary courts or the administrative courts.

It **may be requested during the course of the proceedings** for which it is sought, and if granted may be retroactive with effect from the day the proceedings were initiated or any other date decided by the Chairman of the Bar.

It may also be granted for measures to preserve the status quo pending other proceedings and to execute judgments or any other **enforceable instrument**.

However, it cannot be granted to owners, holders or drivers of automotive vehicles for disputes relating to such vehicles, or to shopkeepers, industrialists, or craftsmen or professionals in relation to disputes concerning their business or professional activity, except in cases of duly substantiated hardship; nor, in general, can it be granted for disputes regarding speculative activity by the person applying for legal aid.

The Chairman of the Bar may, however, grant legal aid for the cases referred to in the preceding paragraph within the framework of **cross-border disputes** covered by Council Directive 2003/8/EC of 27 January 2003.

**With regard to criminal proceedings**, legal aid does not cover the costs and penalties imposed in the event of conviction.

**In civil cases**, legal aid does not cover flatrate legal costs awarded to a successful party (*indemnités de procédure*) or compensation for abuse of process and vexatious proceedings.

Legal aid is refused to persons bringing an action which appears to be manifestly inadmissible, without merit or unreasonable or whose aim seems disproportionate in relation to the potential costs.

Legal aid is refused if the applicant is entitled, for whatever reason, to the reimbursement by a third party of sums to be paid by legal aid.

Beneficiaries of legal aid are entitled to the assistance of a lawyer and any law officer whose collaboration is necessitated by the cause, the action, or its enforcement.

#### **The decision to assign legal aid**

**The Chairman of the Bar** or a member of the Bar Council appointed by the former for the purpose in the applicant's district of residence **decides whether to assign legal aid**. For non-residents the decision is taken by the Chairman of the Luxembourg Bar or a member of the Bar Council appointed by the former for the purpose.

Persons with insufficient means apply to the Chairman of the Bar either at a hearing or in writing.

If a person detained by the police claims entitlement to legal aid and requests it, the lawyer assisting the applicant during their detention submits the application to the Chairman of the Bar.

Where the investigating judge appoints a lawyer for an accused claiming entitlement to and applying for legal aid, the investigating judge submits the application to the Chairman of the Bar.

The Chairman of the Bar verifies the claim of insufficient means and, if it is substantiated, allows legal aid for the applicant and appoints a lawyer freely chosen by the latter or, where no lawyer has been chosen by the applicant, or the Chairman of the Bar deems their choice of lawyer to be inappropriate, the lawyer of the Chairman's own choice. Except on grounds of impediment or conflict of interest, lawyers must accept instructions entrusted to them in this way.

**In cases of emergency**, temporary allowance of legal aid may be assigned, without further formality, by the Chairman of the Bar for the steps the Chairman determines.

#### **Application for legal aid by a minor**

If the Chairman of the Bar allows an application for legal aid by a **minor** whose parents dispose of means such that the minor would not fall within the category of persons with insufficient means, the decision as to whether the minor qualifies for legal aid is communicated to them with a statement indicating that the State is entitled to require the parents jointly and severally to reimburse the amounts paid by the State in respect of legal aid for the minor.

Within ten days of the date of notification of this decision by the Chairman of the Bar, either parent may lodge an appeal with the Disciplinary and Administrative Council, which gives a final ruling on the matter. The Disciplinary and Administrative Council gives a ruling within forty days of the appeal being lodged.

The Chairman of the Bar sends a copy of the final decision regarding the minor's entitlement to legal aid to the Minister of Justice.

The Land Registration and Estates Administration, at the request of the Minister of Justice, is responsible for the recovery of the sums paid by the Government in respect of legal aid for a minor from parents disposing of sufficient means.

#### **Withdrawal of legal aid**

The Chairman of the Bar will withdraw an entitlement to legal aid assigned to the applicant even after the proceedings, or after the measures for which it was granted have been completed, if this entitlement is found to have been obtained by **incorrect statements or documents**. The Chairman of the Bar may withdraw the right to legal aid if the **beneficiary accrues financial means** during the proceedings or during the completion of these measures or as a result of

such proceeding or measures which, had they existed on the day that legal aid was requested, would have precluded any such entitlement. Any changes of this nature must be declared to the Chairman of the Bar by the beneficiary or by the lawyer appointed.

The withdrawal of legal aid renders all costs, charges, fees, allowances, payments, emoluments, deposits and advances of any nature already covered on behalf of applicant immediately payable.

The decision of the Chairman of the Bar declaring the withdrawal of legal aid is communicated to the Minister of Justice immediately. The Land Registration and Estates Administration is responsible for proceeding with the recovery from the beneficiary of the amounts disbursed by the State.

#### **Appeal against the withdrawal of legal aid**

The applicant may lodge **an appeal** against the Chairman of the Bar's decision to refuse or withdraw their legal aid entitlement with the Disciplinary and Administrative Council. Appeals are lodged with the Chairman of the Disciplinary and Administrative Council by letter sent by registered post **within 10 days** of notification of the Chairman of the Bar's decision. The Disciplinary and Administrative Council, or one of its members appointed for this purpose, hears the explanations of the applicant.

It is possible to **file a further appeal** against the decision of the Disciplinary and Administrative Council with the Disciplinary and Administrative Appeals Council. By way of derogation, appeals must be lodged **within a period** of fifteen days.

Notaries and bailiffs are officially appointed by the court dealing with the matter to assist persons entitled to legal aid. In the absence of their appointment by the court seized, notaries are officially appointed by the Chairman of the Notarial Association (*Président de la Chambre des Notaires*) and bailiffs are officially appointed by the Chairman of the Bailiffs Association (*Président de la Chambre des Huissiers de Justice*).

Arrangements for granting legal aid are prescribed by Grand-Ducal Regulation; the same applies to the costs covered by legal aid, the circumstances and procedures for recovery by the State of sums disbursed for legal aid and the procedures according to which lawyers who agree to assist persons with insufficient means are compensated by the State, without prejudice to their right to fees if the financial situation of that person, due to the outcome of the proceeding or for other reasons, improves.

All public authorities are obliged to provide their assistance for the preparation of the documentation required to submit applications for legal aid and to verify such applications, and may not invoke professional or administrative secrecy.

#### **What is the maximum salary threshold to qualify for legal aid for victims of crime?**

Means testing of natural persons applying for legal aid is based on their **total gross income and wealth and that of the members of the household**, in accordance with Articles 19(1) and 20 of the amended Act of 29 April 1999 establishing the right to a guaranteed minimum income, and within the limits determined in Article 5(1), (2), (3), (4) and (6) of that Act. However, the means of other people living in the household are not taken into consideration if the proceeding involves a dispute between spouses or persons usually living together in the same home, or where there is a conflict of interest between them regarding the subject-matter of the dispute, making a separate evaluation of financial means necessary.

#### **Are there other conditions for obtaining legal aid as a victim of crime?**

No, there are no other conditions for obtaining legal aid as a victim of crime.

#### **Are there other conditions governing legal aid entitlement for defendants?**

No, there are no other conditions governing legal aid entitlement for defendants.

#### **Are there proceedings that are free of charge?**

No, there are no other proceedings that are free of charge.

#### **When does the losing party have to pay the winning party's costs?**

##### **In civil matters**

The losing party will be ordered to pay costs, but the court will decide by special and reasoned decision whether the entirety or a fraction of the costs should be awarded against another party.

When it would be inequitable to leave one of the parties with the liability of settling expenses incurred by that party and which are not included as costs, the judge can order the other party to make such payment as he or she sees fit.

The rules are laid down by the New Code of Civil Procedure and by the Grand-Ducal Regulation of 21 March 1974 on the fees and remuneration payable to solicitors (*avoués*) and lawyers.

##### **In criminal matters**

When the court finds against the defendant and those civilly liable for the offence, or against a party bringing a civil action joined to the criminal action, the costs, including the public prosecutor's costs, are awarded against them. If the criminal prosecution was initiated by a civil party bringing a civil action, and that party loses the case, that party is personally liable for all the costs of the proceedings. If the civil party merely joined an action brought by the public prosecutor's office, they will be liable only for the costs incurred as a result of their participation.

When it would be inequitable to leave one of the parties with the liability of settling expenses incurred by that party and which are not included as costs, the court can order the other party to make such payment as it sees fit.

The rules are laid down by the Code of Criminal Procedure and by the Grand-Ducal Regulation of 21 March 1974 on the fees and remuneration payable to solicitors and lawyers.

##### **Experts' fees**

Each party must pay the fees of their experts.

##### **Translators' and interpreters' fees**

Each party must pay the fees of their translators and interpreters.

##### **Related documents**

[Luxembourg Report on the Cost Transparency Study](#)  (551 Kb) 

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