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Legal aid

Luxembourg

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

The following costs of a trial can be paid using legal aid:

stamp and registration duty

court registry fees

bailiffs' fees and costs

experts' costs and fees

translators' and interpreters' fees

notaries' costs and fees

allowances to witnesses

travel expenses

publication costs

lawyers' fees and costs

duties and fees relating to registration, mortgage and pledge

fees for certificates of foreign law (*certificats de coutume*).

2 What exactly is legal aid?

Through legal aid, a natural person who has insufficient means can obtain legal assistance or legal advice from a lawyer for a specific case.

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

Persons with insufficient means are eligible for legal aid to defend their interests, provided that they are:

Luxembourg nationals, or

foreign nationals authorised to take up residence in Luxembourg, or

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, or

illegally staying third-country nationals with a view to the reimbursement of remuneration due under Article 572-7 of the Labour Code (*Code du travail*).

Legal aid may also be granted to any other foreign national with insufficient means in proceedings relating to their right to asylum, entry into the territory, residence, right to settle or removal of foreign nationals.

Whether the applicant's means are insufficient is assessed on the basis of their total gross income and capital and that of any other members of the household.

Legal aid is refused to persons bringing an action which appears a priori to be unreasonable or unlikely to succeed or whose aim seems disproportionate in relation to the potential costs.

4 Is legal aid granted for all types of proceedings?

Legal aid may be granted to either the applicant or the defendant in contentious or non-contentious matters, whether handled in or out of court. It can be requested for any action brought before the ordinary courts or the administrative courts.

Legal aid may also be granted in the case of precautionary measures and procedures to enforce court decisions or any other enforceable instrument.

However, it cannot be granted to owners of motor vehicles for disputes resulting from the use of such vehicles. Likewise, it cannot be granted to shopkeepers, manufacturers, craftspeople or professionals in relation to disputes concerning their business or professional activity, except in exceptional and duly justified cases; nor, in general, can it be granted for disputes arising from speculative activity by the person applying for legal aid.

5 Are there special procedures in cases of need?

In an emergency, legal aid may be granted provisionally, without further formality, by the Chair of the competent Bar Association (*Bâtonnier de l'Ordre des Avocats*) for the steps the Chair determines.

6 Where can I obtain a legal aid application form?

The national application form for legal aid in Luxembourg can be obtained from the Central Social Assistance Service (Service Central d'Assistance Sociale) (tel. 00 352 475821-1).

It can also be downloaded from the website of the Luxembourg Bar (www.barreau.lu) or from the website of the Diekirch Bar (<https://avocats-diekirch.lu/fr/accueil>).

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

Any application for legal aid must be accompanied by:

a copy of the applicant's identity document;

the applicant's [certificate of registration with the Joint Social Security Centre](#) (*certificat d'affiliation au Centre Commun de la Sécurité Sociale - CCSS*) and that of each member of their household;

for the applicant and each member of their household: pay slips (or a CCSS income certificate (*certificat de revenu*), proof of payment of social inclusion income (*attestations de paiement du revenu d'inclusion sociale - REVIS*), unemployment benefit or a pension or other payments covering the last 3 months and indicating gross amounts (bank statements are not sufficient);

a zero-balance certificate from the National Solidarity Fund (Fonds national de solidarité) for each member of the household, if the household does not receive anything from the Fund;

if the household receives or pays a maintenance allowance, a document indicating the amount paid or received (bank statements for the last 3 months, for example);

a real estate ownership or non-ownership certificate issued by the Luxembourg Tax Administration (Administration des contributions directes) for each member of the household;

where applicable, supporting documents for the ownership of real estate located abroad;
documentary evidence of movable assets (cash, savings, shares, bonds, etc.);
if the household rents its accommodation, a copy of the lease contract and rent receipts for the last 3 months;
if the household is repaying a mortgage, proof of payment of the monthly amount;
documentary evidence of income from real estate and movable property;
documents relating to the case in question.

8 Where do I submit my application for legal aid?

The Chair of the Bar Association in the applicant's place of residence, or their delegate, decides whether to grant legal aid. For non-residents the decision is taken by the Chair of the Luxembourg Bar Council or their delegate.

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

The Chair's decision will be sent to you by post.

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

In their decision, the Chair will give the name of the lawyer assigned to provide legal assistance and will ask you to contact that lawyer.

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

The Chair appoints the lawyer that the applicant has freely chosen or, if no lawyer has been chosen by the applicant or the Chair considers their choice inappropriate, the lawyer of the Chair's own choice. Except on grounds of impediment or conflict of interest, lawyers must accept instructions entrusted to them in this way.

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

As a rule, legal aid covers all costs relating to the proceedings, procedures or measures for which it was granted (see point 1).

However, legal aid does not cover compensation for procedural costs (*indemnités de procédure*) or compensation for abuse of process and vexatious proceedings.

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

Partial legal aid does not exist in Luxembourg.

14 Does legal aid also cover appeals?

No, a new application for legal aid for that purpose will have to be submitted.

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

The Chair of the Bar Association may withdraw an applicant's right to legal aid, even after the proceedings or measures for which it was granted, if the entitlement is found to have been based on false declarations or inaccurate documents. The right to legal aid may also be withdrawn if the beneficiary acquires 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. Legal aid beneficiaries or the lawyer appointed have an obligation to notify the Chair of any such changes in their situation.

The Chair's decision to withdraw the right to legal aid is immediately communicated to the Ministry of Justice (Ministère de la Justice). The Land Registration and Estates Department (Administration de l'Enregistrement et des Domaines) is responsible for recovering amounts already paid as legal aid.

16 Can I contest a refusal to give legal aid?

Applicants may appeal the Chair's decision to reject or withdraw legal aid to the Disciplinary and Administrative Council (Conseil disciplinaire et administratif), whose decision is final. Appeals must be lodged with the Chair of the Disciplinary and Administrative Council by registered letter within 10 days of receiving notice of the decision of the Chair of the Bar Association. The applicant is given a hearing before the Council or one of its delegated members.

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

An application for legal aid does not suspend the limitation period.

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Last update: 14/12/2023

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