

Hinweisblatt zum Formular für die Erklärung über die persönlichen und wirtschaftlichen Verhältnisse bei Prozess- oder Verfahrenskostenhilfe

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Achtung: Dieses Dokument ist eine Ausfüllhilfe. Bitte das Originalformular in deutscher Sprache ausfüllen!

Beim selbständigen Ausfüllen kann es zu Fehlern kommen. Das kann unbeabsichtigte Konsequenzen nach sich ziehen. Wir empfehlen daher, eine Beratungsstelle aufzusuchen.

Alle Übersetzungen sind nach bestem Wissen und Gewissen auf ehrenamtlicher Basis erstellt. Der KuB e. V. übernimmt keine Haftung.

Please note: This document is a completion aid. Please fill in the original form in German!

Completing the form on your own may result in errors. This might have unintended consequences. We therefore recommend that you seek assistance at an advice center.

All translations are done by volunteers to the best of their knowledge and ability. KuB e. V. assumes no liability.

Übersetzung erstellt durch das Projekt "Formulare verstehbar machen" der Kontakt- und Beratungsstelle für Flüchtlinge und Migrant_innen (Berlin): kub-berlin.org/angebote/formulare

Spenden erbeten an: „Formulare verstehbar machen“ auf betterplace.org/projects/16145.

ÜBERSETZUNG / TRANSLATION

Information sheet on the statement on personal and financial circumstances when applying for legal aid

– Please keep this information sheet and a copy of your completed form with your other important documents –

General information

What is legal aid for?

If you want to bring action or a claim in court, you will usually have to pay legal costs. If the law requires representation by a lawyer or, for other reasons, you require representation by a lawyer these costs must also be met. Costs will also arise if you defend yourself in court.

Legal aid enables you to pursue or defend your rights, even if you cannot, or only partly, cover the costs. It can also be granted if you have to foreclose in order to assert a claim.

Who gets legal aid?

The law for legal aid dictates the following:

“A party that cannot, only partly, or only through instalments pay court costs due to their personal and financial circumstances receives legal aid by application, when the intended prosecution or legal defence has a chance of being successful and does not seem to be wanton.

The prosecution or legal defence deemed wanton if a party that does not demand legal aid, would abstain from prosecution or legal defence with a reasonable acknowledgement of all circumstances, even though there is a prospect of success.”

This also applies for Verfahrenskostenhilfe (in English “legal aid”). You are entitled to legal aid, if

- you have to pursue a lawsuit and cannot or only partly pay the proceeding costs **and**
- the court estimates there is not only a small prospect of success **and**
- you will not abstain from proceeding when you would have to pay the costs by yourself.

However, there will be **no** entitlement to legal aid if you have a **legal expense insurance** or if **another party** would pay the costs. Legal aid will also not be granted if someone, due to a legal maintenance obligation, has to pay the costs (Process or advance procedural costs). This could be a spouse/registered civil partner or, if unmarried, parents/a parent.

What is legal aid?

Legal aid is a state welfare benefit in the field of the administration of justice. If you receive legal aid, you do not or only partly have to pay court expenses and lawyers fees, depending on your personal and financial circumstances. If applicable, you may have to pay up to 48 monthly instalments from your income. The rates are statutory.

The costs of your legal representation will be borne, if the court appoints a lawyer or another coordinate person. This has to be requested separately. The lawyer must be established in the area of jurisdiction of the court. Otherwise the court can only grant the application of coordinateness, if any further costs do not arise.

It is possible that, if your circumstances improve substantially, you will have to pay legal expenses within a four-year time period starting with the final adjudication or another form of termination of the proceeding. If your circumstances deteriorate, the instalments may be get reduced.

ÜBERSETZUNG / TRANSLATION

Important:

You are obliged to inform the court, without delay, about financial improvements or change of postal address during the proceedings and within a four-year period of time since the final adjudication or another form of termination of the proceeding. If you have a steady income you are required to inform the court about any, not only one-time, increase of more than than 100 Euros (gross) per month. If claimed costs (housing costs, alimony, payment obligations or particular strains) decrease or cease you must also inform the court, when the reduction is not a one-off and more than 100 Euros per month. Your financial circumstances may also improve substantially if you receive money from the prosecution or legal defense, of which you must inform the court. If you violate these obligations, the court can subsequently repeal the grant and you must payback the costs.

Which risks should you be aware of?

If you have to take action, you should get detailed information on the expected court **and** lawyer fees. This also applies to legal aid. **Legal aid does not eliminate the cost risk.**

Legal aid does not cover costs that the opposing party pays for its legal representation. **If you lose the trial, you have to reimburse the costs of the opposing party, even though you were granted legal aid.** However, labour jurisdiction makes one exception: at **first instance**, you do not have to cover the costs of the opposing party if you lose.

Costs already emerge for legal representation in the proceedings on legal aid. You must pay these costs, if your application for legal aid is declined. The same applies to court fees already incurred or that will incur.

How do you get legal aid?

An **application** is required. In your application you need to present and explain the dispute in detail. The court must be able to identify the legally required prospect of success (see above) in your application. You must inform an available **evidence**. If necessary, get advice from a lawyer. Also get advice about **legal advice aid**, with which you can receive free of charge or at a dramatically reduced cost at if you have low assets or income.

Add a **statement on personal and financial circumstances** (familial circumstances, job, assets, income, burdens) including **supporting documents (copies)** to your application. **Use the available form for your statement.** Legal aid can only be granted after the submission of the complete application, including the statement and supporting documents. Each applicant must fill in his own form. Minors need to give information on personal and financial circumstances and on persons obliged to pay maintenance for them on further copies of the form.

The court decides on the granting you legal aid. Legal aid is funded through tax payments. For that reason the court must verify if you have an entitlement to legal aid. This form ought to facilitate the verification. Please understand that you must present your personal and financial circumstances.

Please read and fill in the form carefully.

If you have any difficulties filling in the form, please contact a lawyer or the court. If there is not enough space on the form, you can use an extra sheet of paper. Please mention the additional sheet in the relevant field on the form.

Important:

The court can request you to hand in missing supporting documents and to affirm your statements in lieu of oath. If you do not hand in missing supporting documents, your application for legal aid may be dismissed.

If you make incomplete or false statements, the court can repeal already granted legal aid, which means you have to pay the costs incurred. The same applies to a substantial improvement of your personal and financial circumstances or change of your postal address during the proceeding and within a four-year time period after the final adjudication or other form of termination of the proceeding without telling the court immediately and without being asked. If you consciously make false or incomplete statements, you can be prosecuted.