

Notice
regarding the printed form for the
Statement concerning the Personal and Financial Status
when applying for Legal Aid

- Please keep this notice with your Trial Documents -

General Instructions

Why legal aid?

A lawsuit before a court costs money. A person who intends to file a suit generally has to pay court costs for the suit. If the law prescribes that an attorney is required, or if an attorney is necessary for other reasons, these are additional expenses. The same costs are incurred by a party who has to defend itself against a lawsuit.

By granting legal aid, parties who are unable to defray these expenses are supposed to receive help to pursue or defend their rights.

Who receives legal aid?

The law prescribes:

"A party, who, because of his/her personal and financial status, is unable to fully or partially (in instalments) defray the costs of a lawsuit, is granted legal aid if the intended pursuit or defense of his/her rights offers sufficient prospect of success and does not appear to be wanton."

Subsequently, a **claim to legal aid** has, who:

- must conduct a case and is unable to defray the related expenses, and
- has, in the opinion of the Court, a good chance to win the case.

A claim to legal aid for an action is **not** given if the costs of the action are being paid by a **Legal Protection Insurance** or **another agency**.

Legal aid cannot be granted if the spouse or, if an unmarried child is involved, the parents or one parent has to pay for the costs because of legal maintenance responsibility.

What is legal aid?

The legal aid has the effect that a party does not have to make **any payments or pay off in instalments** the court costs and the costs of **his/her** attorney depending on his/her personal and financial status. If applicable, one party may, at the most, pay up to a **maximum of 48 monthly instalments**, the amount of which will be determined by law.

The legal aid covers the attorney's fees if the Court **appoints** a lawyer **as the assistant** of a party. This has to be requested separately. The lawyer must be principally **admitted** to the Court. If this is not the case, the Court can only meet the request to appoint an assistant if the lawyer does not insist on being paid the extra costs.

If the status of a party improves **considerably**, he/she may be ordered later to pay a share of the costs up to **four years after the end of the lawsuit**, possibly up to the full amount of the court costs and your lawyer's fees. If your status changes for the worse, an alteration of instalment rates in your favor is possible.

What risks have to be taken into consideration?

A person who must conduct a lawsuit should first obtain specific information on the amount of court costs and lawyer's fees. This also applies to the legal aid. It does not exclude every risk of costs. The legal aid does not include those costs the opposite party spends on the lawsuit, e.g. for its attorney. **If one party loses the case he/she usually has to pay for the expenses of the opposite party even though he/she has been granted legal aid.** One exception applies to a lawsuit in a **Labor Court**: In this case the losing party in the first instance does not have to pay for the expenses of the opposite party's attorney.

Expenses are already incurred by an attorney for the lawsuit to be granted legal aid.

These expenses have to be paid by the party if its request for financial support is turned down. The same applies to already incurred and expected court costs.

How does one obtain legal aid?

It is necessary to submit a **request**. The nature of the lawsuit must be described explicitly and completely in the request. The Court must be able to derive from the request a conclusive proof for an "adequate chance of success" (see above). **Evidence** has to be listed. As far as these questions are concerned you should consult with a lawyer. Let him/her inform you about the **law concerning advice**, which stipulates that people with a low income or assets have a claim to free or cheap legal advice and out of court representation.

The request has to be accompanied by a **Statement concerning the Personal and Financial Status** (family relations, profession, assets, income, and encumbrances), as well as pertinent **receipts**. **The attached printed form must be used for that statement**. Legal aid can principally only be granted for the time period **after submission** of the complete request, to include this statement and all necessary receipts.

With granting legal aid, the court has at its disposal funds that are raised by the public through taxes. Therefore, the Court must verify that a claim to legal aid does really exist. The printed form is supposed to facilitate this verification. Please understand that you have to explain your personal and financial status.

Read the printed form carefully and fill it out completely and correctly.

Instructions on how to fill out the printed form are listed below. If you run into difficulties in filling out the printed form you may seek the assistance of your lawyer or the Court.

If there is not enough space on the printed form you may write additional statements on a separate sheet of paper. Please refer to the additional sheet in the pertinent space on the printed form.

Please attach the **necessary receipts**, which should be up to date, number them and enter the number in the pertinent square on the margin.

Missing receipts may result in a **denial** of legal aid, **incomplete or false** information may cause its **cancellation** and the later payment of the costs that were incurred in the meantime. Deliberate false or incomplete information may result in **criminal prosecution**.

Instructions on how to fill out the Printed Form

Please complete **all parts** of the printed form **completely**. If questions have to be **answered in the negative**, place an "X" in the pertinent square. If there is no such square, please enter the word "no" or place a dash there.

- Ⓐ Please specify the **gainful employment** from which you draw an income (Section Ⓔ of the printed form). You may abbreviate your marital status (s = single; m = married; ls = living separate; d = divorced; w = widowed).
- Ⓑ If you have **Legal Protection Insurance**, please find out first if they will take over the costs. **Please enclose the insurance policy at any rate**. If you have any doubt, please consult with your insurance company or your lawyer. If your insurance company refuses to take over the costs, please enclose the letter of refusal. The same applies if the costs are taken over by **another agency or person** (e.g. liability insurance, employer) or if you are entitled to a free representation in court by another organization (e.g. **tenant's association, labor union**).
- Ⓒ The question also has to be answered in the affirmative if the contributions are not being made in the form of an annuity but in the form of natural produce (e.g. free accommodation, alimentation, other maintenance within the household of the parents; contributions of the partner in a marriage-like community). The amount of these contributions has to be entered in Section Ⓔ "Other earnings".

If the person responsible for maintenance is **your spouse living separately from you**, or if the person is **directly related to you** (e.g. father/mother) and your lawsuit pertains to a personal matter (e.g. action for maintenance, divorce case), the Court needs additional information pertaining to the personal and financial status of that person. As far as the spouse living separate is concerned, the information may be entered in Section Ⓔ through Ⓙ of this printed form. In the remaining instances, please use a **duplicate** of this printed form. Line out on the printed form on the first line of Section Ⓐ the words "legal aid is being requested by" and write above them - depending on who is furnishing you maintenance - the term applicable in

your case "(parents) (father) (mother) of that person who requests legal aid". Then let the form be filled out by the parent or parents in Sections (A), (D) through (J), let them sign it and attach it to your statement.

If the person responsible for maintenance refuses to cooperate, please state the reason of his/her refusal and everything you know about his/her personal and financial status.

(D) If you pay maintenance to **relatives**, this will be taken into consideration when granting legal aid. Therefore, it is in your interest to state to whom you are paying maintenance, if you furnish this support exclusively by monetary contributions and if those persons have an income of their own. The personal income of a person whom you furnish support includes, for instance, support payments from a third party, especially those of the other parent for a common child, or training allowance which a dependant child receives.

(E) **You have to attach the necessary receipts to substantiate your statement.**

Income from not self-employed work is, in particular, a salary or wages. You have to state the **gross income of the last month before submitting the application**. If you earn more or less per month, please state the higher or lower average income. Explain it on a separate sheet of paper. Please list the vacation bonus, Christmas bonus, or other nonrecurring or aperiodic payments separately under "Other Income". Please enclose:

1. a **pay voucher of your place of work for the past twelve months prior to the submission of the application**;
2. **if available, the last notification of the revenue office regarding the annual tax on wages statement or the income tax statement**, otherwise the tax on wages certificate of the place of work, **which show the gross and net income of the previous year**.

Income from **self-employed work, a business or agriculture and forestry** have to be stated in a current monthly amount. The same applies to the entry of corresponding **working expenses as deductions** in Section (F) (4). Please list the monthly amounts on a separate sheet of paper by means of an interim **balance** with the net gain resulting from them. Seasonal or other deviations of the business receipts are to be taken into consideration by an adequate bonus or reduction; the monthly amounts of receipts and business expenses that have to be entered on the printed form have to be calculated according to their duration. At the request of the Court, the business receipts along with the pertinent income tax advance notice, and the business expenses have to be substantiated with accrued receipts. The **last annual balance and the last tax assessment, which disclose the earnings that were made**, have to be attached.

Regarding receipts from **leasing and letting** and from **capital assets** (e.g. interest, dividends), please enter **one twelfth of the anticipated annual receipts**.

If you collect **maintenance payments** for yourself and children, only the amount intended for your support should be entered under "**Other Income**". The amounts intended for the children should be entered in the last space of Section (D).

Other income is, for example, payments like pensions, support payments, any kind of annuities, training aid, sick benefits, unemployment pay, unemployment aid, public assistance, and the like. The last **allocation decision** and the documents which disclose the current amount of the payment have to be attached.

The monetary value of **all other receipts**, which are not entered on any other previous line of the printed form, to include natural produce (e.g. extra allowance, free board and other payments in kind; free lodging only if housing expenditures are being entered under (H)).

(F) The following **Deductions** may be asserted:

- 1 **Taxes** deducted from income (to include church tax, trade tax, but not sales tax);
- 2 **Compulsory Social security** contributions (annuity insurance, health insurance, disabled insurance, unemployment insurance);
- 3 Contributions to **public or private insurance companies or similar institutions**, inasmuch as these contributions are directed by law, or if they are adequate as far as their cause or amount is concerned; please explain the kind and extent of the insurance on a separate sheet of paper if this is not clearly explained by the receipts (insurance policy, premium bill) that have to be attached.

④ **Professional Outlay**, i. e. necessary expenses to acquire, secure, and maintain an income (e.g. working clothes, union dues). If you claim expenses for the **ride to work**, the single distance in miles has to be stated; when using an automobile, state the reason why public transportation is not being used. Regarding income from self-employed work list the **working expenses** here; if these expenses also fall under ① ② or ③, or under ④, they can only be deducted once.

⑤ State all **assets** (to include those invested abroad) here that belong to you and your spouse. Should one or more third parties be co-owners, please indicate the share that belongs to you or your spouse, respectively.

Legal aid may also be granted if assets are available, but if they are used to secure an adequate standard of living or an adequate provision. Such assets are, for instance:

- an adequate plot of land (family home) which is being used by yourself;
- smaller amounts of cash and cash values (sums up to a total of 2301 Euro for the needy party, plus 256 Euro for each other person who is predominantly supported by this person, are usually considered a smaller amount of cash).

Nevertheless, these assets have to be specified.

Household furnishings, clothes, as well as items that are needed for professional training or professional practice only have to be specified if they exceed the usual frame or if they are high-value items.

If **real estate** exists, which is built upon, please specify, if applicable, the respective total space which is being used for living quarters or for commercial purposes, not only that space that is being used by you and your dependants (④ above).

In the last column of this section, the **market value** (not the standard value or fire insurance value) regarding the **real estate** needs to be specified; regarding **building loan accounts, bank accounts, transfer bank accounts, savings accounts**, and the like, specify the present **amount of the assets**; regarding **securities**, specify the value up to which a **loan may be raised** on it.

"**Other Assets**" include outstanding debts and accounts receivable, and in divorce cases also particularly claims against additional gains.

If the employment or utilization of an item of property means a specific hardship for you and your family, please explain this on a separate sheet of paper.

⑥ If **costs of housing** are claimed, please specify the living space and the kind of heating. Please break down the costs as provided for on the printed form.

Extra rental rates, beside the **heating costs**, which have to be specified separately, are **operating costs** (real-estate tax, drainage, street-cleaning, lift, house-cleaning, community antenna, etc.).

Encumbrances by extraneous means regarding **dwelling property** specifically include interest and amortization rates on loans/mortgages/encumbrances which had to be raised for the building, the purchase, or the upkeep of the family home. The operating costs, beside the heating costs which have to be specified separately, are considered to be **extra costs** in this case.

Should you share the living space with a person other than a dependant (④ above), please only enter those sums which you have to pay proportionately.

The necessary receipts (e.g. rental contract, loan documents, settlement of extra costs) **must be attached**.

⑦ The necessary receipts regarding the monthly payments and the present amount of the debt balance need to be attached, if the liability to pay was incurred for the acquisition of a property asset, which needs to be specified under ⑤, or if it is being claimed as a special encumbrance under ⑧.

⑧ If you claim a **Special Encumbrance**, please specify the monthly amount or proportionate monthly amounts which are supposed to be deducted from your income, respectively, from the income of your spouse. Please attach, beside the receipts, an explanation on a separate sheet of paper. Alimony that needs to be paid by a spouse as a result of his/her previous marriage may be listed in this column, too. High loan instalments, too, may be deductible as special encumbrances. From the pertinent individual data specified in ⑦ it must be possible to derive for what, since when, and how long the liability to pay instalments exists. It must further be specified if you pay off the loan instalments regularly. Your actual payments must be substantiated by receipts.

⑨ The statement has to be signed on the bottom line by the party itself or by the person who is legally representing him/her.