Legal aid

Francia

In France, the provision of free legal help is called legal aid (*aide juridictionnelle*).

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

The costs incurred in proceedings vary depending on the nature and complexity of the case, the procedure and the court with jurisdiction to decide on the case.

Costs fall into three categories:

• lawyer's fees, which are not subject to a fixed scale and can therefore be agreed between lawyers and clients; in principle these are payable by clients unless they are eligible for legal aid;

• expenses, listed specifically in Article 695 of the Code of Civil Procedure (*Code de procédure civile*) and comprising mainly:

a. representation emoluments payable to lawyers or certain public officials (*officiers publics* or *officiers ministériels*); emoluments are separate from fees;

b. costs of proceedings payable to bailiffs;

c. costs of experts' reports and investigation;

d. any witness allowances, based on a scale;

e. counsel's hearing fee;

f. disbursements: costs relating to the fixed-rate expenses advanced by professionals for the requirements of the proceedings.

Costs are payable by the losing party. That principle is laid down in Article 696 of the Code of Civil Procedure. However, judges may give a reasoned decision ordering a different party to pay all or part of the costs; in the latter case the judges determine how the costs are to be split.

• other costs incurred in court by the parties to the proceedings are in principle payable by those parties unless the judge decides otherwise. The judge may exercise that power in both criminal and civil cases, with due regard to equity or the economic situation of the convicted party. Judges may even rule of their own motion that such an order is not necessary.

In criminal cases, the State pays the court fees. The convicted person is required to pay a fixed fee for the proceedings, the amount of which depends on the offence.

2 What exactly is legal aid?

Legal aid is part of the legal and regulatory framework for legal assistance provided for in Law No 91-647 of 10 July 1991 and its implementing decree, Decree No 2020-1717 of 28 December 2020. The aim of this framework is to meet the requirements of national and international law relating to equal access to justice and the right to a fair trial.

Legal assistance covers:

Legal aid: full or partial payment by the State of the costs of going to trial or taking a case to the appeal courts, and of the costs of proceedings concerning the enforcement of decisions and settlements before the commencement of proceedings or divorce by mutual consent settled out of court;

Aid for assistance by a lawyer in non-court criminal proceedings, such as police custody measures, alternatives to prosecution (settlement, mediation, etc.) or assistance for detainees before a prison disciplinary board;

Aid for access to law (information, guidance and free legal consultation, etc.).

Legal aid and aid for assistance by a lawyer in non-court proceedings enable the State to cover lawyers' fees, emoluments payable to public officials (bailiffs, notaries, etc.) and court fees. The aim is to ensure that individuals are not prevented from defending their rights because of a lack of financial resources.

Legal aid may cover all, part or none of the costs. It does not cover any costs covered by a legal expenses insurance policy or other protection scheme. Where appropriate, the portion of the costs thus covered are deducted from the amounts advanced by the State in respect of legal aid.

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

Legal aid is granted by the legal aid office (*bureau de l'aide juridictionnelle*) attached to the ordinary court (*tribunal judiciaire*) in question, based on several criteria relating to financial resources, nationality, place of residence and admissibility.

It may also be granted automatically in the context of certain proceedings and in specific cases, without the need to complete any additional formalities other than those imposed by the actual proceedings.

Financial criteria:

You can obtain legal aid if the relevant authorities determine that you have insufficient resources to allow you to defend your rights in court. To determine if that is the case, different ceilings are taken into consideration:

- Income ceilings;
- Ceilings in respect of movable and financial assets;
- Ceilings in respect of property assets.

It should be noted that the ceilings depend on the composition of the tax household. However, if the two opposing parties in the proceedings for which an application for legal aid is submitted are from the same tax household, their resources are examined separately.

These ceilings have been adjusted each year since 2021 in line with observed changes in consumer prices excluding tobacco. The adjustment is recorded in an annual circular, published in the *Official Journal of the French Republic*.

The legal aid offices therefore examine applications as follows:

- The main indicator used to ensure compliance with the income ceiling is the **reference tax income** (RFR). The reference tax income is the annual sum of the various types of income coming into the tax household, as calculated by the tax authorities. It appears on the cover page of the tax assessment. The ceiling changes depending on the composition of the tax household;
- In the absence of a reference tax income, the indicator used is that of taxable resources;
- The **ceilings in respect of movable and financial assets** (mainly savings) are laid down in a regulation. It should be noted that if the applicant declares assets of zero value (EUR 0), no supporting documents are requested;

- The **ceilings in respect of property assets** exclude assets that could not be sold or pledged without seriously affecting the persons concerned. This is particularly the case for the main residence and for property used for professional purposes.

To find out whether you are eligible for legal aid, you can consult the 'service-public.fr' website. The website offers an online tool to simulate your eligibility for legal aid by entering your sources of income: https://www.aidejuridictionnelle.justice.fr/simulateur. It should be noted that it is an indicative tool which cannot predict the decision of the competent authorities and does not under any circumstances replace the procedure for applying for legal aid.

However, legal aid is granted without consideration of the income criteria to the victims of the most serious crimes (victims of attacks with intent to endanger life or cause bodily harm) and their beneficiaries.

In addition, Article 19-1 of the Law of 10 July 1991 guarantees the remuneration of a lawyer assigned or appointed *ex officio* for a limited list of proceedings, and there is no *ex ante* examination of the recipient's eligibility. Eligibility will be verified *ex post*, possibly leading to the recovery of sums covered by the State in the event of ineligibility.

Nationality criterion:

Legal aid may be granted to French nationals, nationals of an EU Member State (with the exception of Denmark) or foreign nationals habitually and legally resident in France. It may also be granted for a case in a French court to foreigners not resident in France but who are nationals of a State having an international or bilateral agreement with France making its nationals eligible for legal aid.

More specifically, habitual and legal residence in France is the general rule. However, foreigners are granted legal aid without having to meet the condition of being resident if they are minors, assisted witnesses, persons under investigation, charged, accused, convicted or claiming damages in criminal proceedings, if they are the subject of a protection order pursuant to Article 515-9 of the Civil Code, if they are the subject of a plea bargain or if they are the subject of proceedings concerning the conditions laid down in the Code for the entry and residence of foreign nationals in France and the right to asylum in France.

Admissibility criterion:

Legal aid is granted to persons whose legal action does not appear manifestly inadmissible or unfounded. This condition applies by nature only to legal aid and not to assistance by a lawyer in non-court proceedings. Thus, a time-barred action or the application to bring proceedings as a civil party based on facts which do not constitute a criminal offence are regarded as manifestly inadmissible.

This condition is not applicable to defendants in the action, persons with civil liability, assisted witnesses or persons charged, accused or convicted.

Applicants are refused legal aid for appeals if no reasonable grounds of appeal can be established.

Specific situations

Legal aid is granted without any examination of the eligibility criteria if the applicant has already received legal aid for their case and their opponent has appealed against the decision handed down in the applicant's favour (in this case the legal aid is deemed to be 'maintained').

Similarly, persons who do not meet the eligibility criteria (in terms of resources or nationality) may exceptionally be granted legal aid if their action appears particularly worthy of interest on account of the subject matter of the litigation or the foreseeable cost of the proceedings (Articles 3 and 6 of the Law of 10 July 1991 on legal aid). This is also the case for victims of assault with intent to endanger life or cause bodily harm, in order to allow them to bring civil proceedings, as well as for their dependants.

There are also a number of proceedings for which legal aid is granted automatically. This is the case for:

- Appeals against individual decisions taken pursuant to Book I and Titles I to III of Book II of the Code on Military Invalidity Pensions and Victims of War
- Minors subject to the hearing provided for in Article 388-1 of the Civil Code
- Proceedings before the National Court of Asylum unless the action is manifestly inadmissible
- Persons in custody:

who are subject to disciplinary proceedings in connection with their detention

who are subject to an isolation measure (automatic isolation, extension or lifting of the placement in isolation if it had been requested by the detainee).

before the commission for the enforcement of sentences pursuant to Article 720 of the Code of Criminal Procedure

- Persons detained in a socio-medical detention centre (*centre socio-médico-judiciaire de sûreté*) with regard to decisions taken against him/her to ensure the smooth running of the centre.

4 Is legal aid granted for all types of proceedings?

Legal aid is granted to claimants and defendants in non-contentious or contentious proceedings in any court and for the hearing of minors.

It may be granted for all or part of the proceedings and for the purpose of reaching a settlement before the commencement of proceedings.

Legal aid may also be granted to secure enforcement of a court decision or any other writ of execution, including those from other EU Member States, with the exception of Denmark.

5 Are there special procedures in cases of need?

Provisional eligibility for legal aid may be granted in an emergency situation, for example when the proceedings jeopardise the essential living conditions of the person concerned, or in the case of enforcement involving seizure of property or eviction.

Provisional eligibility is decided by a magistrate of the court hearing the case, following an informal application by the person concerned or *ex officio* if the person concerned has submitted an application for legal aid on which a decision has not yet been taken.

It is granted automatically, that is to say without any additional legal formality other than those required by the actual proceedings, where the proceedings concern the issue of a protection order, a mechanism for the protection of victims of domestic violence.

There is also a guaranteed legal aid scheme applicable to 11 proceedings:

- Judicial proceedings for the lifting and control of psychiatric care measures;
- Assistance of a person applying for or challenging the issue of a protection order as provided for in Article 515-9 of the Civil Code;
- Immediate trial;
- Deferred trial;
- Appearance before an examining magistrate;
- Hearing of arguments concerning placement or maintenance in pre-trial detention;
- Assistance of a minor in respect of child protective service proceedings, proceedings before the juvenile magistrate in criminal matters or the juvenile court, voluntary questioning without custody, preliminary questioning or an investigation;
- Assistance of an accused person before the assize court (criminal court of first instance handling the most severe crimes), the departmental criminal court, the juvenile assize court or the juvenile court ruling in criminal matters;
- Proceedings before the magistrate for custody and release (*juge des libertés et de la détention*) relating to the entry and residence of foreign nationals;
- Proceedings before the administrative court concerning the removal of foreign nationals who are subject to a measure restricting their liberty;
- Non-court proceedings as referred to in points 2° to 4° of Article 11-2 of the 1991 Law.

This arrangement allows your lawyer to request payment of their remuneration by the State. The State will advance the costs for you. Your eligibility for legal aid will therefore be examined after the proceedings in question. If it turns out that you are not eligible, you will have to reimburse the costs to the State.

6 Where can I obtain a legal aid application form?

The legal aid application form can be downloaded and printed by copying the following link to your browser:
https://www.justice.fr/formulaire/demande-aide-juridictionnelle
It is also possible to make an online application for legal aid directly from the website https://www.aidejuridictionnelle.justice.fr/ if your application concerns ongoing or future proceedings before a court of law.
Legal aid may be requested before the petition is lodged or during the course of proceedings.
You may also apply for legal aid after the end of proceedings. For example, to enforce the court decision.
You can also obtain a legal aid application form from the ordinary court where you reside or where the case will be heard, as well as from your nearest *Point Justice* or 'Justice Point' (*Maisons de la Justice et du Droit* (Houses of Justice and Law), *Point d'Accès au Droit* (Access to Law Point) or *Relais d'Accès au Droit* (Access to Law Relay)). To locate it, see the following webpage: http://www.annuaires.justice.gouv.fr/lieux-dacces-aux-droits-10111/
If you are a French national living abroad, the form may also be obtained from consulates or at the:
Département de l'entraide, du droit international privé et européen (DEDIPE – department of mutual assistance, private international and European law)
Ministère de la Justice, Direction des affaires civiles et du sceau,
13 place Vendôme, 75042 Paris Cedex 01.
If you are a foreigner not resident in France, you can obtain the legal aid form from the central authority designated by your country to transmit international legal aid applications. Most countries have designated their Ministry of Justice. France has designated the above department at the Ministry of Justice, the *Bureau du droit de l'Union, du droit international privé et de l'entraide civile*, to process applications in civil, commercial or administrative cases by residents of Member States of the Council of Europe which are party to the European Agreement of 27 January 1977 on the Transmission of Applications for Legal Aid with responsibility for receiving and transmitting applications.
If you are a national of an EU Member State, with the exception of Denmark, and you are resident in France or your case is being heard in a French court, you might be eligible for cross-border legal aid in civil and commercial cases in accordance with Council Directive 2003/8/EC of 27 January 2003. The office responsible for processing those applications in France is the:
Bureau de l'aide juridictionnelle
Service de l'accès au droit et à la justice et de l'aide aux victimes (SADJAV)
Ministère de la Justice
13 place Vendôme 75042 Paris Cedex 01.
Finally, if your application falls under an administrative court or an administrative court of appeal, you cannot complete your application for legal aid online but rather you must use the CERFA form (CERFA being the entity responsible for registering and revising official forms for a variety of purposes in France).

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

The application form for legal aid must be accompanied by the necessary supporting documents (tax assessment, proof of family situation or nationality, etc.). You can find the list of documents to be provided on the 'service-public.fr' website and in the Order of 30 December 2020 on the content of the application form for legal aid and the list of supporting documents.
The supporting documents enable you to show that your situation entitles you to legal aid, in particular with regard to:
- your financial resources and those of the people who usually live in your household;
- the subject of your application.

8 Where do I submit my application for legal aid?

You can submit or send your application to the legal aid office for your place of residence or the office for the district in which the court hearing the case is located.
There is a single legal aid office in every ordinary court (formerly the regional court (*tribunal de grande instance*), which processes legal aid applications for cases to be heard in that court or in those within its jurisdiction: ordinary court (*tribunal judiciaire*), administrative court (*tribunal administratif*), employment tribunal (*conseil de prud'hommes*), court of appeal (*cour d'appel*) and administrative court of appeal (*cour administrative d'appel*).
As an exception to the single office rule, each of the following courts also has an office:
• the Court of Cassation (*Cour de cassation*), the highest ordinary court;
• the Council of State (*Conseil d'état*), the highest administrative court;
• the National Court of Asylum (*Cour nationale du droit d'asile*).
You can also apply for legal aid online at the following address: https://www.aidejuridictionnelle.justice.fr/

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

A notification of the legal aid office's decision will be sent to your place of residence.
To estimate any potential legal aid rights, an online simulator is available at:
https://www.justice.fr/simulateurs/aide-juridictionnelle
This simulation gives you an insight into whether or not you are eligible for legal aid. However, it does not replace a proper examination of your application. It therefore cannot predict the decision that will be taken by the legal aid office.

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

You should contact your lawyer (or legal official, e.g. bailiff, expert, notary, etc.) or the person appointed to you in order to explain your case and give them all the information and documents required for their work.
If you have been awarded partial legal aid, you must come to an arrangement regarding the additional fee you will pay them. That amount must be shown in the agreement you must sign.

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

All individuals may appoint a lawyer of their choice.
If you are appointing your own lawyer, you must then give their name on the legal aid application.
However, if you do not know of a lawyer, one will be appointed for you by either the chair of the bar association at the ordinary court (formerly the regional court) or the president of the court hearing the action.

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

Full legal aid covers all court fees, including the remuneration of court officers (lawyers, bailiffs, experts, notaries, etc.), to whom it is paid directly. That payment is calculated according to a scale or rate depending on the type of proceedings.
It is also possible to be granted partial legal aid, which covers between 25% and 55% of the costs of the proceedings in question.

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

If you are granted partial legal aid, you are still liable for the remainder of the non-fixed fee, determined by agreement between you and the lawyer, under the supervision of the chair of the bar association to whom you may refer any dispute.

As with full legal aid, eligibility for partial legal aid exempts the recipient from having to advance or deposit the costs of the proceedings.

14 Does legal aid also cover appeals?

If you are the party filing the appeal, you must lodge a further application, which will be assessed taking into account the legally established eligibility criteria. In contrast, if it is your opponent who files an appeal, any entitlement to legal aid you have been granted will remain in effect. You must nevertheless expressly submit a further application to the legal aid office of the ordinary court in either your place of residence or in the district in which the court of appeal is sitting. This new request will not lead to a further examination of the supporting documents or of your resources in particular;

If you have already been granted legal aid for previous proceedings and you wish to lodge an appeal, the previous decisions on eligibility no longer apply. You must lodge an application with the legal aid office at the Court of Cassation, which will consider the admissibility of the proposed action as well as the amount of your assets. In respect of appeals, legal aid may be denied if no reasonable grounds of appeal can be established.

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

The right to legal aid may be withdrawn completely or in part (Article 50 of the Law of 1991 and Articles 65 to 68 of Decree 2020-1717 of 28 December 2020 on legal aid) during or after the proceedings, in the following cases:

where the legal aid was obtained on the basis of false statements or inaccurate documents;

where proceedings are an abuse of process or have been found to be dilatory and manifestly inadmissible;

where, in the course of the proceedings, the value of the recipient's movable or immovable assets increases significantly;

where the final decision procured assets exceeding the ceilings for eligibility for legal aid;

where the external elements of the lifestyle of the recipient of legal aid or aid for assistance by a lawyer appear to be manifestly incompatible with the amount of the annual resources taken into account in order to assess their eligibility.

Decisions withdrawing legal aid entail an obligation for the recipient to repay the amount of the contribution paid by the State. In this case, the authorities of the State will issue a collection order against you, which will indicate how to reimburse the legal costs advanced by the State.

16 Can I contest a refusal to give legal aid?

If you are refused legal aid, you may appeal against the decision.

You can appeal yourself or through a lawyer.

An appeal may be brought against a decision to refuse legal aid outright or against a decision to grant partial aid, if you have applied for full aid.

The appeal must be lodged within 15 days of *notification* of the decision.

You must indicate in the appeal the reasons why you contest the decision taken. Example: an error in the number of people in your household or the amount of your resources.

The appeal must be sent by registered mail with acknowledgement of receipt to the legal aid office that issued the decision.

You must include a copy of the contested decision.

The authority that issued the decision will forward your application to the authority competent for examining the appeal. The authority competent for examining the appeal depends on the court which is responsible for examining the case in relation to which you have applied for legal aid.

Authority competent for examining the appeal depending on the court	
Court	**Authority responsible for examining the appeal**
Usual procedure	1st President of the court of appeal to which the court dealing with the case belongs or of the court of appeal dealing with the case
National Court of Asylum (*Cour nationale du droit d'asile – CNDA*).	President of the National Court of Asylum
Administrative court	President of the administrative court of appeal to which the court belongs
Administrative court of appeal	President of the administrative court of appeal dealing with the case
Council of State	President of the Legal Section of the Council of State
Court of Cassation	1st President of the Court of Cassation
Court of Conflicts of Jurisdiction	President of the Court of Conflicts of Jurisdiction

Once the appeal has been examined, you will be *notified* of the decision by mail.

This second decision is final; you will not be able to challenge it.

N.B.:

An appeal lodged by a lawyer with the president of the administrative court of appeal or the president of the Legal Section of the Council of State must be sent using the Télérecours remote appeals service.

Legal aid may be granted retrospectively if a party has brought an action and won the case when aid was refused on the grounds that the action did not have a reasonable chance of succeeding.

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

Under Articles 43 and 44 of Decree No 2020-1717 of 28 December 2020, an application for legal aid has an interrupting effect on the period within which the proceedings or appeal for which legal aid is sought may be initiated, provided that the application for legal aid is lodged within the same time limit. Consequently, this period starts to run again after the legal aid office has given a final decision on the application. The same applies to the limitation period.

There is an exception in respect of the legal aid office of the National Court of Asylum. The application for legal aid has the effect of suspending the one-month period, which starts to run again after notification of the decision granting legal aid eligibility (Article 9-4 of the Law of 10 July 1991).

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