Legal aid

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

Article 151 of the Civil Procedure Act (*Zakon o parničnom postupku*) states that litigation costs include expenses incurred in the course of or in relation to the proceedings. These costs include, for example, expenses for the introduction of evidence, court fees, publication expenses, expenses for daily allowances and travelling expenses of judges and court recorders, travelling expenses of the parties in connection with their appearance in court and the like. Litigation costs also include remuneration for the work of lawyers and other persons who have the right to remuneration according to the law.

Pursuant to Article 152 of the Civil Procedure Act, each party is to meet, in advance, the costs they incur as a result of their actions. When a party proposes evidence, they are obliged, by order of the court, to pay, in advance, the amount needed to cover the costs to be incurred in relation to the introduction of evidence. Success in litigation is the basic principle when deciding on who is to finally bear the litigation costs. Thus, the first paragraph of Article 154 of the Civil Procedure Act states that a party who loses a case completely is obliged to pay the costs of the opposing party and their intervener incurred by the proceedings. The intervener on the side of the party that loses the case must cover the expenses incurred by their actions. Pursuant to the second paragraph of Article 154 of the Civil Procedure Act, if a party is partially successful in their litigation, the court is to decide on the reimbursement of costs on the basis of the degree of success in the litigation in relation to the claim that was finally filed. Special rules apply in cases where litigation costs are incurred by the fault of one of the parties or by an event that happened to them, when a judgment is given on the basis of a confession, when the plaintiff withdraws the lawsuit or waives the claim, when the litigation is settled by the court and when co-litigants participate in litigation (Articles 156-161 of the Civil Procedure Act).

2 What exactly is legal aid?

Under the Free Legal Aid Act (*Zakon o besplatnoj pravnoj pomoći*), the purpose of legal aid is to achieve equality before the law, to provide citizens of the Republic of Croatia and other persons with effective legal protection and access to court and other bodies governed by public law under equal conditions in accordance with the provisions of the Free Legal Aid Act.

Legal aid is provided as primary or secondary legal aid.

Primary legal aid comprises:

- general legal information
- legal advice
- drafting of submissions to bodies governed by public law, the European Court of Human Rights and international organisations under international agreements and the rules on the functioning of those bodies
- representation in proceedings before bodies governed by public law
- legal aid in an amicable out-of-court settlement.

Primary legal aid is provided by administrative bodies of the counties and the City of Zagreb (hereinafter: administrative bodies), authorised associations and law clinics. In providing primary legal aid, administrative bodies are authorised to offer general legal information and legal advice, and to draft submissions.

Secondary legal aid includes:

- legal advice
- drafting of submissions in proceedings for the protection of workers' rights before the employer
- drafting of submissions in litigation
- representation in court proceedings
- legal assistance in amicable settlement of a dispute.

Secondary legal aid is provided by lawyers.

Secondary legal aid also includes:

- exemption from the costs of court proceedings
- exemption from court fees.

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

The following persons are entitled to free legal aid:

- Croatian nationals
- children who are not Croatian nationals but find themselves in Croatia unaccompanied by an adult responsible by law
- foreigners with a temporary residence permit under the condition of reciprocity or foreigners with a permanent residence permit
- foreigners under temporary protection
- foreigners residing illegally and foreigners with a short-term residence permit in proceedings for issuing a decision on expulsion or a decision on return
- asylum seekers, persons with asylum status and foreigners under subsidiary protection and members of their families legally residing in the Republic of Croatia, in proceedings in which legal aid is not provided by a specific law.

As a rule, the following property conditions must be met in order to be granted secondary legal aid:

a) the total monthly income of the applicant and the members of their household must not exceed the amount of the calculation base (€441.44) per household member, and

b) the total value of property owned by the applicant and the members of their household must not exceed the amount of 60 times the calculation base (€26 486.40).

Secondary legal aid is approved without a prior assessment of the applicant's economic situation, if the applicant is:

a) a child in the process of exercising the right to maintenance

b) a victim of a violent crime in proceedings for the purpose of exercising the right to compensation for damage caused by the criminal offence

c) a beneficiary of maintenance payments under the special legislation governing social security rights, or

d) a beneficiary of a cost-of-living allowance under the Act on the Rights of Veterans of the Croatian War of Independence and their Family Members (*Zakon o pravima hrvatskih branitelja iz Domovinskog rata i članova njihovih obitelji*) and the Act on the Protection of Military and Civilian War Veterans (*Zakon o zaštiti vojnih i civilnih invalida rata*).

Legal aid can also be granted for cross-border disputes. A cross-border dispute is one where the party applying for legal aid is domiciled or resident in an EU Member State other than the Member State where the court is sitting or where the decision is to be enforced.

Legal aid in cross-border disputes is granted in civil and commercial matters, mediation proceedings, out-of-court settlements, the enforcement of public instruments and legal advice in such proceedings. The provisions on legal aid in cross-border disputes do not apply in taxation, customs and other administrative proceedings.

An applicant for legal aid in a cross-border dispute will be granted legal aid if they meet the preconditions established by the Free Legal Aid Act.

Exceptionally, legal aid may be granted to an applicant who does not meet the conditions for the granting of legal aid laid down by the Free Legal Aid Act if they prove that they are unable to pay the costs of the proceedings owing to the difference in the cost of living between the Member State where they are domiciled or resident and the Republic of Croatia.

4 Is legal aid granted for all types of proceedings?

Primary legal aid can be provided for any legal matter, on condition that:

- the applicant does not have sufficient knowledge or ability to assert their rights
- the applicant has not received legal aid under specific legislation
- the application submitted is not manifestly unfounded, and
- the applicant's material circumstances are such that paying for professional legal assistance could jeopardise their livelihood or that of members of their household.

Secondary legal aid provided by lawyers, and exemption from paying litigation costs may be granted in the following types of proceedings:

- proceedings concerning rights in rem, except in land-registry proceedings
- proceedings concerning employment relations
- proceedings concerning family relations, except in proceedings regarding divorce by mutual consent if the spouses have no common or adopted underage children or children who have come of age but are under their parental care
- proceedings concerning enforcement and security proceedings regarding forced collection or securing of claims arising from the proceedings in which legal aid may be granted under the provisions of the Free Legal Aid Act
- amicable settlement of a dispute
- by way of exception, in all other administrative and civil judicial proceedings when such need arises from specific life circumstances of the applicants and their household members, in accordance with the fundamental purpose of the Free Legal Aid Act.

Secondary legal aid provided by lawyers may be granted in the above proceedings under the following conditions:

- the proceedings are complex
- the applicant is incapable of representing themselves
- the applicant's material circumstances are such that paying for professional legal assistance could jeopardise their livelihood or that of members of their household, in accordance with the specific conditions laid down in Article 14 of the Free Legal Aid Act
- the litigation is not vexatious
- the applicant has not had their application rejected within 6 months of the submission thereof for intentionally supplying inaccurate information, and
- the applicant has not received legal aid under specific legislation.

Exemption from court fees may be granted in all court proceedings (civil proceedings and administrative disputes) if the applicant's material circumstances are such that the payment of court fees could jeopardise the livelihood of the applicant and of the members of their household, subject to the special conditions set out in Article 14 of the Free Legal Aid Act. When a decision is made, special attention will be paid to the amount of court fees in the procedure in which exemption is requested.

5 Are there special procedures in cases of need?

The administrative body must decide on an application for approval of secondary legal aid within 15 days from the day on which it was submitted. If the applicant loses the right to take the action for which they submitted the application owing to expiry of the deadline, the administrative body must decide on the application within a shorter period which allows the applicant to take the action in a timely manner.

6 Where can I obtain a legal aid application form?

The procedure for obtaining primary legal aid is initiated by directly contacting the provider of primary legal aid (authorised association, law clinic or administrative body), and it is not necessary to fill in a specific application form.

The procedure for obtaining secondary legal aid is initiated by submitting a request for granting legal aid on the prescribed form to the competent administrative body. The application form for legal aid can be obtained from the administrative bodies and on the websites of the administrative bodies and the Ministry of Justice and Public Administration (*Ministarstvo pravosuđa i uprave*).

Applications for legal aid in a cross-border dispute and applications for the transmission of applications for legal aid in a cross-border dispute are to be submitted on the forms prescribed by Commission Decision 2004/844/EC of 9 November 2004 establishing a form for legal aid applications under Council Directive 2003/8/EC to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes and Commission Decision 2005/630/EC of 26 August 2005 establishing a form for the transmission of legal aid applications under Council Directive 2003/8/EC, published in the Official Journal of the European Union.

Forms and all accompanying documents in a cross-border dispute must be submitted translated into Croatian. Otherwise, the application will be rejected.

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

When an application is submitted to the competent administrative body, it must be accompanied by the written consent of the applicant and the members of their household to allow access to all data on total income and assets, in which the applicant confirms that the information provided is accurate and complete. Victims of domestic violence submit their consent to allow access to all data on income and property only for themselves. Consent is not submitted by those members of the household who participate in the proceedings as defendants or whose interest is contrary to the interest of the applicant.

The application form for legal aid in a cross-border dispute should be accompanied by the relevant documentation required to make a decision on the application.

8 Where do I submit my application for legal aid?

The procedure for obtaining primary legal aid is initiated by directly contacting a provider of primary legal aid (authorised association, law clinic or administrative body), and there is no need to submit a specific application, while the procedure for obtaining secondary legal aid is initiated by submitting an application to the competent administrative body in whose territory the applicant is domiciled or resident.

An applicant who is domiciled or resident in a Member State of the European Union and seeks legal aid in a cross-border dispute before a court in the Republic of Croatia must submit a legal aid application to the Ministry of Justice and Public Administration of the Republic of Croatia (receiving authority).
A party who is domiciled or resident in the Republic of Croatia and who seeks legal aid in a cross-border dispute before a court of another Member State of the European Union must submit their application to the office responsible for the place where they are domiciled or resident.

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

Secondary legal aid is granted to an applicant who meets the conditions for exercising the right to legal aid by the adoption of a decision on granting legal aid. The administrative body must decide on an application within 15 days from the date on which it was submitted.

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

The decision on legal aid includes the right to use some or all forms of secondary legal aid for a procedure of a certain type and degree. The abovementioned decision contains the personal data of the beneficiary of legal aid, a brief description of the legal matter for which the legal aid was granted, the form and scope of the approved legal aid, data on the lawyer who will provide legal aid and other data relevant to the decision.
When the applicant submits an application for legal aid in the form of an exemption from court fees, they must inform the court in the submission, or when taking another action in the court proceedings, about their application for exemption from court fees, and must submit the decision exempting them from paying court fees no later than 6 months from the date of filing the submission or from the date of taking another action in the proceedings before the court.

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

The decision granting secondary legal aid also specifies the lawyer who will provide the legal aid. The beneficiary of legal aid must submit the decision to the lawyer specified in the decision. Exceptionally, the administrative body will appoint a different lawyer for the beneficiary with their prior consent attached to the application for legal aid.

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

As stated above, the decision granting legal aid includes the right to use some or all forms of secondary legal aid for a procedure of a certain type and degree. Under the decision granting legal aid, the beneficiary may be fully or partially exempted from paying lawyer's fees, litigation costs (exemption from advance payment of costs of witnesses, interpreters, experts, investigations and court publications) and court fees.
Legal aid is granted in full if the applicant is a beneficiary of a support allowance in accordance with specific regulations governing the exercise of rights under the social welfare system, or of a cost-of-living allowance under the Act on the Rights of Veterans of the Croatian War of Independence and their Family Members and the Act on the Protection of Military and Civilian War Veterans, or if the total income of the applicant and the members of their household does not exceed 50% of the monthly amount of the calculation base per household member.
Any increase in the total income of the applicant and the members of their household above 50% of the calculation base per household member results in a reduction in the amount of legal aid, in such a way that each increase of 10% results in a reduction in legal aid by 10% but the amount of the legal aid should not be less than 50% of the costs determined for legal aid.
If legal aid has not been granted in full, the applicant may lodge an appeal to the Ministry of Justice and Public Administration against the part of the decision refusing to grant legal aid. Such an appeal does not delay the use of the approved amount of legal aid. Administrative proceedings may be initiated against the decision of the Ministry of Justice and Public Administration rejecting the appeal.

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

When a reduced amount of legal aid has been granted, the rest of the costs will be borne by the beneficiary of legal aid. In any event, if the beneficiary of legal aid wins the case, the court will decide that that party should be reimbursed for the costs of the proceedings by the other party.

14 Does legal aid also cover appeals?

An application for legal aid may request the granting of legal aid for both stages of civil proceedings. In order to prepare extraordinary legal remedies, it is necessary to submit a special application, and a specific decision is issued for that legal action only.

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

If during the proceedings the financial situation of the beneficiary of legal aid and the members of their household improves to the extent that if this improved financial situation had existed at the time of application it would have affected the applicant's right to legal aid and the scope of legal aid, the competent administrative body will revoke the legal aid decision fully or partially. Beneficiaries of legal aid must inform the administrative body about any improvement in their financial situation within 8 days from the day on which it came to their knowledge. A beneficiary of legal aid may lodge an appeal with the Ministry of Justice and Public Administration against the decision revoking the decision granting legal aid within 15 days from the date of receipt of the decision. Administrative proceedings may be initiated against the decision of the Ministry of Justice and Public Administration.

16 Can I contest a refusal to give legal aid?

The applicant or beneficiary of legal aid may lodge an appeal against the decision of the administrative body rejecting the application for legal aid or against the part of the decision refusing to grant legal aid in full within 15 days from the date of receipt of the decision. The Ministry of Justice and Public Administration must decide on an appeal within 8 days from the date of receipt of a valid appeal. Administrative proceedings may be initiated against the decision of the Ministry of Justice and Public Administration.
Further information:
Website of the Ministry of Justice and Public Administration https://pravosudje.gov.hr/besplatna-pravna-pomoc/6184
Free Legal Aid Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 143/13 and 98/19)
Civil Procedure Act (NN Nos 53/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 96/08, 123/08, 57/11, 148/11- consolidated text, 25/13, 89/14, 70/19, 80/22 and 114/22).

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

In accordance with the Free Legal Aid Act, the lodging of an application for free legal aid does not have the effect of interrupting the limitation period.

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