Legal aid

Rumunsko

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

Public legal aid may be provided in the following forms:

a) payment of the fee for representation, legal assistance and, where applicable, defence by an appointed or selected lawyer in order to ensure the exercise or safeguarding of a right or legitimate interest in court or to prevent a dispute, hereinafter assistance by a lawyer;

b) payment provided to the expert, translator or interpreter resorted to throughout the proceedings, with the approval of the court or judicial authority, if such payment is incumbent upon the person applying for public legal aid;

c) payment of the bailiff's fee;

d) exemptions from, reductions in, rescheduling or deferral of payment of legal costs, as provided for by the law, including those due at the enforcement stage.

Where public legal aid is provided to citizens of EU Member States or to other persons who are domiciled or habitually reside within the territory of a Member State, the approved public legal aid may also include:

a) expenses for translation of the documents submitted by the recipient, which were requested by the court or by the judicial authority for the resolution of the case, and related requests and documents submitted or received are exempted from the legalisation formality or from any other equivalent formality.

b) an interpreter's services in the proceedings conducted before the court/judicial authority;

c) expenses incurred with travel that the recipient of the assistance or another person must undertake to Romania at the request of the court or judicial authority, or where the law requires the mandatory presence of either of these persons.

The eligible person who meets the requirements set out in question No 3 is also entitled to reimbursement of the payment made to the mediator as a fee where they provide proof that, before the initiation of legal proceedings, they had undergone the mediation proceedings for the dispute or if they request mediation after the initiation of proceedings, but before the first hearing date.

Public legal aid may be provided, either separately or cumulatively, in any of the above-mentioned forms. The value of the public legal aid provided, either separately or cumulatively, in any of the forms of assistance by a lawyer, expert, translator, interpreter or bailiff, may not exceed the maximum equivalent level of 12 national gross minimum salaries over a one-year period in the year when the aid application was lodged.

(Articles 6, 7, 20 and 44 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented)

2 What exactly is legal aid?

Public legal aid constitutes the form of assistance granted by the State with the purpose of providing for the right to a fair trial and of safeguarding equal access to the act of justice in order to ensure the exercise of certain rights or legitimate interests by judicial means, including for enforcement of court judgments or other enforceable titles.

(Article 1 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented)

3 Do I have a right to legal aid?

Any natural person may apply for the public legal aid if they are unable to cope with the legal costs for certain proceedings, or with those arising from the reception of legal advice in order to safeguard a right or legitimate interest in court, without jeopardising their or their family's maintenance.

Family means spouses, children or other direct descendants up to the age of 18, who are financially dependent on the applicant, and children or other direct descendants over the age of 18, but up to the age of 26, if they are continuing their studies and are financially dependent on the applicant. A member of the family is also considered to be the person who shares the domicile or place of residence, or household, with the applicant, the children or other direct descendants thereof up to the age of 18, who are financially dependent on the applicant, and children or other direct descendants over the age of 18, but up to the age of 26, if they are continuing their studies and are financially dependent on the applicant.

The persons whose monthly average net income per family member is below RON 500 in the last two months preceding the submission of the application are entitled to public legal aid. In this case, the amounts constituting public legal aid are fully paid by the State. If the average net income per family member in the last two months preceding the submission of the application is below RON 800, the amounts constituting public legal aid are paid by the State in a rate of 50%. The amounts constituting income thresholds and the maximum threshold that may be granted as public legal aid may be revised under a Government decision.

Public legal aid may also be granted in other cases, proportionally with the applicant's needs, when the actual or estimated legal costs are likely to restrict that applicant's effective access to justice, including for the different living costs between the Member State where the applicant is domiciled or habitually resides and Romania.

Account is taken, when determining the income, of any regular income such as wages, allowances, fees, annuities, rents, profit from trade or from self-employment and others alike, as well as amounts due on a regular basis, such as rents and maintenance obligations.

Public legal aid is granted independently of the applicant's financial status if a special law provides for the right to legal assistance or to free legal assistance as a protective measure in the light of special circumstances such as minority, disability, a certain status or others alike. In this case, public legal aid is granted without the income criteria being met, but only for the safeguarding or recognition of certain rights or legitimate interests arising from or related to the special circumstance that justified recognition, under the law, of the right to legal assistance or to free legal assistance.

The right to public legal aid is extinguished with the death of the party or with the improvement of that party's financial status to such an extent that they can afford the legal costs.

(Articles 4, 5, 8, 81, 9, 10, 101, 2, 21 and 50 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented)

4 Is legal aid granted for all types of proceedings?

The public legal aid provided for by this Government Emergency Order is granted in civil, commercial, administrative, labour and social security matters, as well as in other matters, with the exception of criminal matters.
(Article 3 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented)

5 Are there special procedures in cases of need?

No particular urgency proceedings are regulated in matters of legal assistance.

6 Where can I obtain a legal aid application form?

Applications for public legal aid, which are submitted in accordance with this chapter, are prepared as per the application form set out in the Annex that forms an integral part of this Emergency Order (*Article 49 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented).*

FORM

for legal aid application in another Member State of the European Union

Instructions:

1. Before filling in the application form, please read carefully these instructions.
2. The person who completes the application must provide all the information requested in this form.
3. Any imprecise, inadequate or incomplete information may delay the processing of your application.
4. Including false or incomplete information in the application may result in legal consequences and the application for legal aid may be rejected; you may also face criminal charges.
5. Please attach all supporting documents.
6. Please note that this application does not affect the time limit to be observed for commencing judicial proceedings.
7. Please date and sign the application.

A1. Applicant's personal details

Surname and forename .....

Date and place of birth .....

Personal number .....

Address (domicile or residence) .....

.....

Tel/Fax/E-mail .....

A2. Personal details of the legal representative (parent, guardian, curator etc.), where applicable (to be completed if the applicant is legally represented)

Surname and forename .....

Date and place of birth .....

Personal number .....

Address .....

Tel./Fax/E-mail .....

A3. Personal details of the applicant’s lawyer, where applicable (to be completed if the applicant already has a lawyer)

Surname and forename .....

Address .....

Tel/Fax/E-mail .....

B. Information concerning the dispute for which legal aid is requested

Please attach copies of all supporting documents.

B1. Nature of the dispute (divorce, employment etc.)

B2. Value of the dispute if it can be expressed in money, and the currency in which the dispute value is expressed

B3. Description of the situation for the settlement of which public legal aid is requested (including the competent court, the hearing date, the evidence etc.)

C. Details on the proceedings

Please attach copies of all supporting documents.

C1. Your current or upcoming position in the proceedings (plaintiff or defendant)

Describe the subject-matter of the claim submitted for examination .....

.....

Name and contact details of the opponent .....

.....

C2. Special reasons for requesting urgent action on this application, where applicable

C3. Please list the expenses that should be covered by the application (to be checked)

_

|_| a) lawyer’s assistance;

_

|_| b) expert’s payment;

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|_| c) payment for the translator or interpreter resorted to throughout the proceedings;

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|_| d) payment of the bailiff’s fee;

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|_| e) exemptions from, reductions in, rescheduling or deferral of payment of legal costs and/or bails, as provided for by the law, including fees and bails payable at the enforcement stage.

C4. Please specify whether the public legal aid is requested for obtaining:

_

|_| A lawyer’s assistance within the framework of extrajudicial procedures

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|_| A lawyer’s assistance before the initiation of legal proceedings

_
|_| A lawyer’s assistance (consulting and/or representation) within the framework of on-going legal proceedings. In this case, please specify:
- registration number
- dates of hearings
- name of the court
- address of the court

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|_| A lawyer’s assistance in recourse to judicial review procedures against a court judgment. In this case, please specify:
- name of the court
- the judgment date
- the reason why assistance is requested
- the appeal against the judgment

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|_| A lawyer’s assistance in enforcement proceedings. In this case, please specify:
- name of the court
- the ruling date or the date of issue of another enforceable title.

C6. Specify whether you have any form of insurance or other rights and facilities which may cover legal costs in full or in part.
If so, please provide details: .....
.....
.....

D. Family situation

_____
How many people live in your household? |_____|
Please specify their relationship to you

Surname and forename	Relationship to the applicant	Date of birth (for minors)	Is this person financially dependent on the applicant?	Is the applicant financially dependent on this person?
			_	_
			|_|	|_|
			_	_
			|_|	|_|

Is there any person who is financially dependent on you who does not reside with you?

Surname and forename	Relationship to the applicant (for minors)	Date of birth

Are you financially dependent on a person who does not reside with you?

Surname and forename	Relationship to the applicant

E. Financial information

Please provide all information about you, your cohabitee or your spouse, about any person who is financially dependent on you or, where applicable, any person you are financially dependent on.
If you receive other financial contributions than maintenance from a person on whom you financially depend and who does not reside with you, please indicate them under Section E.1 “Other income”.
If you provide financial assistance to a person other than someone who is financially dependent on you and who resides with you, please indicate this under Section E.3 “Other expenses”.
Please attach all supporting documents of the situations described here above.
Please specify the currency in which you express the pecuniary values in the table if they are expressed in a currency other than RON.

E.1. Details about	I. Applicant	II. Spouse or	III. Dependent	IV. Persons

monthly income		cohabitee	persons	supporting
				the
				applicant
_____	_____	_____	_____	_____
Salaries,				
indemnities:				
_____	_____	_____	_____	_____
Business profit:				
_____	_____	_____	_____	_____
Pensions:				
_____	_____	_____	_____	_____
Income:				
_____	_____	_____	_____	_____
Benefits from
the State:
_____
1. allowances:				
_____	_____	_____	_____	_____
2. unemployment benefit				
and social				
insurance:				
_____	_____	_____	_____	_____
Income from				
entitlements				
to certain				
movable or immovable assets:				
_____	_____	_____	_____	_____
Other income:				
_____	_____	_____	_____	_____
TOTAL:				
_____	_____	_____	_____	_____

_____

E.2. Amount	I. Applicant	II. Spouse or	III. Dependent	IV. Persons
of properties		cohabitee	persons	supporting
				the
				applicant
_____	_____	_____	_____	_____
The building where				
you live:				
_____	_____	_____	_____	_____
Another building:				
_____	_____	_____	_____	_____
Land:				
_____	_____	_____	_____	_____
Savings:				
_____	_____	_____	_____	_____
Shares:				
_____	_____	_____	_____	_____
Motor vehicles:				
_____	_____	_____	_____	_____
Other assets:				
_____	_____	_____	_____	_____
TOTAL:				
_____	_____	_____	_____	_____

_____

E.3. Monthly	I. Applicant	II. Spouse or	III. Dependent	IV. Persons
expenses		cohabitee	persons	supporting
				the
				applicant
_____	_____	_____	_____	_____
Taxes:				
_____	_____	_____	_____	_____
Social				
security contributions:				
_____	_____	_____	_____	_____
Local taxes:				
_____	_____	_____	_____	_____
Mortgage				

costs:				
_____	_____	_____	_____	_____
Rent and housing				
costs:				
_____	_____	_____	_____	_____
Education				
costs:				
_____	_____	_____	_____	_____
Education				
Childcare				
costs:				
_____	_____	_____	_____	_____
Instalments:				
_____	_____	_____	_____	_____
Repayment of				
loans:				
_____	_____	_____	_____	_____
Maintenance paid to other persons				
under a				
legal obligation:				
_____	_____	_____	_____	_____
Other expenses:				
_____	_____	_____	_____	_____
TOTAL:				
_____	_____	_____	_____	_____

I declare on my honour that the information provided is true and complete and I undertake to declare without delay to the competent authority processing the application any changes in my financial situation.

Prepared at .....

Date .....

Signature .....

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

The request for public legal aid is expressed in writing and will include mentions regarding the subject-matter and nature of the proceedings for which public legal aid is requested, the identity, personal number, domicile and financial status of the applicant and his/her family, attaching supporting documents of his /her and his/her family's income, and evidence of the maintenance or payment obligations. The application will also be accompanied by a declaration on honour from the applicant, indicating whether he/she received any public legal aid in the past 12 months, in what form, for what matter and the amount of that aid.

The court may request any clarifications and evidence from the parties, or written information from competent authorities.

Extrajudicial assistance is granted by the Legal Aid Service established within each bar association based on an application whose model is approved by the Legal Aid Coordination Department, which will include mentions regarding the subject-matter and nature of the aid application, the identity, personal number, domicile and financial status of the applicant and his/her family, supporting documents being attached thereto for his/her and his/her family's income, and evidence of the maintenance or payment obligations.

The application will also be accompanied by a declaration on honour from the applicant, indicating whether he/she received any public legal aid in the past 12 months, in what form, for what matter and the amount of that aid.

The applicant will provide evidence of his/her financial status principally by means of the following documents:

an attestation of income for the applicant and the other members of his/her family;

the family register and, where applicable, the children's birth certificates;

the applicant's or child's certificate of disability, where applicable;

a declaration on honour showing that the applicant and his/her other family members do not receive additional income;

a declaration on honour regarding the assets of the applicant and his/her family;

a declaration on honour showing that the applicant and/or the other parent declare(s) that the child is not entrusted or placed in the care of another authorised private body or public service, or of any legal person;

proof provided by the competent authorities on the statement of the taxable assets on the name of the applicant or, where applicable, on the name of his/her other family members;

other documents required to establish the right to legal aid under the law.

(*Article 14 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented, and Article 73 of Law No 51/1995 for the organisation and practice of the profession of lawyer, as subsequently amended and supplemented).*

8 Where do I submit my application for legal aid?

The public legal aid application is addressed to the competent court settling the case for which the aid is requested; for the public legal aid requested for the enforcement of a judgment, the application falls within the remit of the enforcing court. Where the competent court cannot be determined, settlement lies with the district court in whose territorial jurisdiction the applicant has his/her domicile or residence.

If public legal aid is requested in ongoing legal proceedings, the application(s) for public legal aid, where applicable, is/are settled by the panel entrusted with the settlement of the main application.

Public legal aid is granted at any time during the proceedings, from the date when the application was submitted by the interested party, and is maintained throughout the entire procedural stage at which it was requested. The application for public legal aid is exempted from the stamp fee.

Public legal aid for recourse to judicial review procedures may be granted in the form of a new application. The application for public legal aid for recourse to judicial review procedures is addressed to the court whose judgment must be appealed against within the time limit for lodging an appeal and is settled as a matter of urgency by a panel other than that who settled the case on its merits.

By submitting the application for public legal aid, the time limit for lodging an appeal is discontinued only once if the applicant submits the supporting documents within not more than ten days. A new time limit for lodging an appeal starts to run from the date of communication of the conclusion settling the application for public legal aid or, where applicable, the application for a review in the sense of admission or rejection.
If the application for public legal aid is admitted, the court immediately communicates the conclusion to the applicant and to the bar association. The bar association must appoint a lawyer within 48 hours, who is entitled to plead before any court of appeal, as the case may be.. The date of appointment of the lawyer and their particulars are communicated to the court and to the applicant within not more than 48 hours. A new time limit for lodging an appeal starts to run from the date when the lawyer is appointed.
Extrajudicial assistance is granted by the Legal Aid Service established within each bar association based on an application whose model is approved by the Legal Aid Coordination Department, which will include mentions regarding the subject-matter and nature of the aid application, the identity, personal number, domicile and financial status of the applicant and his/her family, supporting documents being attached thereto for his/her and his/her family's income, and evidence of the maintenance or payment obligations.
The application will also be accompanied by a declaration on honour from the applicant, indicating whether he/she received any public legal aid in the past 12 months, in what form, for what matter and the amount of that aid.
The application for extrajudicial assistance is submitted to the Legal Aid Service and settled within not more than 15 business days from the registration date under an admission or rejection decision, where applicable. The decision is served on the applicant within five business days from the date of issue of the decision. The decision rejecting the application for extrajudicial assistance may be contested before the Bar Association Board within five days from its notification. Objections to the rejection decision are settled by the Bar Association Board, as a matter of urgency, during the first meeting of the Bar Association Board.
(*Articles 11, 12 and 13 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented, and Article 73 of Law No 51/1995 for the organisation and practice of the profession of lawyer, as subsequently amended and supplemented).*

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

The court rules on the application for public legal aid, without summoning the parties, under a reasoned conclusion delivered in chambers. An application for a review may be submitted by the interested party against the conclusion rejecting the application for public legal aid within five days from the date when the conclusion was served. The application for a review is settled in chambers by another panel and the court delivers an irrevocable conclusion.
If the application for public legal aid was approved for aid in the form of assistance by a lawyer, that application and the approval conclusion are immediately sent to the chairman of the bar association within the jurisdiction of that court. The chairman of the bar association or the lawyer entrusted with this task by the chairman will appoint a lawyer listed in the Legal Aid Register within three days, to whom they send the conclusion together with the notice of appointment. The chairman of the bar association must also inform the recipient of the public legal aid of the name of the appointed lawyer. The recipient of the public legal aid may request themselves the appointment of a certain lawyer, with the latter's consent under the law.
The application for extrajudicial assistance is submitted to the Legal Aid Service within each bar association and settled within not more than 15 business days from the registration date under an admission or rejection decision, where applicable. The decision is served on the applicant within five business days from the date of issue of the decision. The chairman of the competent bar association appoints a lawyer from the Legal Aid Register of the bar association under the decision granting extrajudicial assistance. The chairman of the bar association may approve, if possible, extrajudicial assistance to be granted by a lawyer chosen by the person to whom legal aid is granted.
(*Article 15 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented, and Article 73 of Law No 51/1995 for the organisation and practice of the profession of lawyer, as subsequently amended and supplemented).*

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

Public legal aid in the form of assistance by a lawyer is granted in accordance with Law No 51/1995 on the organisation and practice of the profession of lawyer, as republished, as subsequently amended and supplemented, which concerns legal aid or free legal aid.
If the application for public legal aid was approved for aid in the form of assistance by a lawyer, that application and the approval conclusion are immediately sent to the chairman of the bar association within the jurisdiction of that court. The chairman of the bar association or the lawyer entrusted with this task by the chairman will appoint a lawyer listed in the Legal Aid Register within three days, to whom they send the conclusion together with the notice of appointment. The chairman of the bar association must also inform the recipient of the public legal aid of the name of the appointed lawyer. The recipient of the public legal aid may request themselves the appointment of a certain lawyer, with the latter's consent under the law.
Assistance by a lawyer may also be extrajudicial assistance and consists in providing consultation, submitting requests, petitions or notifications or initiating other such legal action, and in representing clients before public authorities or institutions, other than judicial authorities or authorities having judicial powers, in order to ensure the exercise of certain rights or legitimate interests. Extrajudicial assistance must result in the provision of clear and accessible information to the applicant in accordance with the legal provisions in force regarding competent institutions and, if possible, the requirements, time limits and procedures provided for by the law for the recognition, granting or exercise of the right or interest, as alleged by the applicant. Extrajudicial assistance is granted in accordance with Law No 51/1995, as republished, as subsequently amended and supplemented.
The application for extrajudicial assistance is submitted to the Legal Aid Service within each bar association and settled within not more than 15 business days from the registration date under an admission or rejection decision, where applicable. The decision is served on the applicant within five business days from the date of issue of the decision. The decision rejecting the application for extrajudicial assistance may be contested before the Bar Association Board within five days from its notification. Objections to the rejection decision are settled by the Bar Association Board, as a matter of urgency, during the first meeting of the Bar Association Board.
The chairman of the competent bar association appoints a lawyer from the Legal Aid Register of the bar association under the decision granting extrajudicial assistance. The chairman of the bar association may approve, if possible, extrajudicial assistance to be granted by a lawyer chosen by the person to whom legal aid is granted.
When the public legal aid application is approved in the form of a fee paid to the expert, translator or interpreter, the conclusion approving the aid also establishes the provisional fee due to them. The court will determine the final fee after the provision of the service for which the provisional fee has been paid.
When the public legal aid application is approved in the form of a fee paid to the bailiff, the conclusion approving the aid also establishes the provisional fee due to the bailiff depending on the complexity of the case on that date. The application and the approving conclusion are sent as soon as possible to the territorial chamber of bailiffs within the territorial jurisdiction of that court. The board of the territorial chamber of bailiffs must appoint a bailiff within three days, to whom they send the respective conclusion together with the notice of appointment. The chairman must also inform the recipient of the public legal aid of the name of the appointed bailiff. The recipient of the public legal aid may request themselves the appointment of a certain bailiff with territorial competence. After the bailiff has discharged their duties under the law and their regulations, the court will determine the final fee, at the bailiff's request, depending on the complexity of the case and the work volume completed, within the limits of the fees determined under the law.

When the application granting facilities on payment of legal costs is approved, the conclusion will determine either the exemption from payment or the discount rate, payment deadlines and the value of instalments, where applicable. Where the payable legal costs exceed the double value of the applicant's monthly net income per family in the month prior to the submission of the public legal aid application, the payment will be staggered such that the payable monthly instalment does not exceed half of the net income per family, unless the court deems it necessary to grant other more favourable form of aid. The payment of the legal costs can be staggered in not more than 48 monthly instalments.
(*Articles 23, 24, 25, 32, 33, 34 and 35 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented, and Articles 71 and 73 of Law No 51/1995 for the organisation and practice of the profession of lawyer, as subsequently amended and supplemented).*

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

Public legal aid in the form of assistance by a lawyer is granted in accordance with Law No 51/1995 on the organisation and practice of the profession of lawyer, as republished, as subsequently amended and supplemented, which concerns legal aid or free legal aid.
If the application for public legal aid was approved for aid in the form of assistance by a lawyer, that application and the approval conclusion are immediately sent to the chairman of the bar association within the jurisdiction of that court. The chairman of the bar association or the lawyer entrusted with this task by the chairman will appoint a lawyer listed in the Legal Aid Register within three days, to whom they send the conclusion together with the notice of appointment. The chairman of the bar association must also inform the recipient of the public legal aid of the name of the appointed lawyer. The recipient of the public legal aid may request themselves the appointment of a certain lawyer, with the latter's consent under the law.
As regards extrajudicial assistance, the chairman of the competent bar association appoints a lawyer from the Legal Aid Register of the bar association under the decision granting extrajudicial assistance. The chairman of the bar association may approve, if possible, extrajudicial assistance to be granted by a lawyer chosen by the person to whom legal aid is granted.
(*Article 23 and Article 35 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented, and Articles 71 and 73 of Law No 51/1995 for the organisation and practice of the profession of lawyer, as subsequently amended and supplemented)*

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

Public legal aid may be provided in the following forms:
a) payment of the fee for representation, legal assistance and, where applicable, defence by an appointed or selected lawyer in order to ensure the exercise or safeguarding of a right or legitimate interest in court or to prevent a dispute, hereinafter assistance by a lawyer;
b) payment provided to the expert, translator or interpreter resorted to throughout the proceedings, with the approval of the court or judicial authority, if such payment is incumbent upon the person applying for public legal aid;
c) payment of the bailiff's fee;
d) exemptions from, reductions in, rescheduling or deferral of payment of legal costs, as provided for by the law, including those due at the enforcement stage.
Where public legal aid is provided to citizens of EU Member States or to other persons who are domiciled or habitually reside within the territory of a Member State, the approved public legal aid may also include:
a) expenses for translation of the documents submitted by the recipient, which were requested by the court or by the judicial authority for the resolution of the case, and related requests and documents submitted or received in accordance with this chapter are exempted from the legalisation formality or from any other equivalent formality;
b) an interpreter's services in the proceedings conducted before the court/judicial authority;
c) expenses incurred with travelling that the recipient of the assistance or another person must undertake to Romania at the request of the court or judicial authority, or where the law requires the mandatory presence of either of these persons
Public legal aid may be provided, either separately or cumulatively, in any of the above-mentioned forms. The value of the public legal aid provided, either separately or cumulatively, in any of the forms of assistance by a lawyer, expert, translator, interpreter or bailiff, may not exceed the maximum equivalent level of 12 national gross minimum salaries over a one-year period in the year when the aid application was lodged.
(*Articles 6, 7 and 44 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented).*

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

The expenses for which the party has been granted exemptions or discounts with the approval of the public legal aid will be imposed on the other party if the latter is unsuccessful. The unsuccessful party will be bound to pay these amounts to the State.
If the party who has received the public legal aid is unsuccessful, the proceedings costs incurred by the State are to be borne by the former. However, the court may decide, with the resolution of the case, to bind the party who has received the public legal aid to refund in whole or in part the expenses incurred by the State if, by their non-diligent conduct during the proceedings, the party has triggered the loss of case or if a judgment has ascertained the abusive conduct of the action.
(*Articles 18 and 19 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented).*

14 Does legal aid also cover appeals?

If the judgment delivered in the case for which public legal aid has been approved is submitted to an appeal procedure, the public legal aid granted at the preceding procedural stage in the prescribed form of assistance by a lawyer is lawfully extended to cover the drawing up of the application and of the reasons for the appeal as well as the recourse to and conduct of the appeal procedure.
The judgment delivered with a right to appeal and the copy of the conclusion approving the public legal aid are notified immediately to the bar association for verification and acknowledgement purposes or, where applicable, to appoint a lawyer entitled to plead before a court of appeal. For the appeal procedure, the lawyer is entitled to a separate fee that is determined by the court of appeal under the law.
If the party has not received public legal aid at the preceding procedural stage of the appeal procedure, the public legal aid is requested by submitting a new application.
A new time limit for lodging an appeal starts to run from the date when the lawyer is appointed or acknowledged. The date of appointment of the lawyer and their particulars are communicated to the court and to the applicant within not more than 48 hours.
The court of appeal checks whether the requirements for the granted public legal aid are still met. If the court finds that the requirements are no longer met, it decides in a conclusion to terminate the aid and to bind the party to refund in whole or in part the expenses incurred by the State in the form of a lawyer's fee.
(*Article 13.1 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented).*

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

The right to public legal aid is extinguished with the death of the party or with the improvement of that party's financial status to such an extent that they can afford the legal costs.

On reception of the application for public legal aid, the applicant is informed that, if he/she loses the case, the legal costs of the other party will be borne by him/her and a possibility will be envisaged for him/her to refund the amounts received as public legal aid where an interested party refers to the court which approved the public legal aid and submits evidence regarding the actual status of the person for whom the application was approved; legal public aid is not suspended during the new investigations.

If the court finds that the application for public legal aid was submitted in bad faith, by concealing the truth, it will issue a conclusion binding the person who received unjustifiably the public legal aid to refund the amounts from which he/she was exempted as compensation and to pay a fine of up to five times the amount for which he/she received the exemption unjustifiably. Only an application for a review can be filed against the conclusion, with the possibility of requesting, on a reasoned basis, a review of or a decision to reduce the compensation or fine. The application is submitted within five days from the date when the conclusion is notified and is settled by another panel under an irrevocable conclusion.

Where, under a final and irrevocable judgment, the recipient of the public aid acquires assets or claims the value or amount of which exceeds the value of the public aid granted by ten times, he/she is bound to refund the public aid. The reimbursement procedure is that laid down in Chapter III of this Emergency Order.

(*Article 10, 14, 17 and 50(2) of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented).*

16 Can I contest a refusal to give legal aid?

The court rules on the application for public legal aid, without summoning the parties, under a reasoned conclusion delivered in chambers. An application for a review may be submitted by the interested party against the conclusion rejecting the application for public legal aid within five days from the date when the conclusion was served. The application for a review is settled in chambers by another panel and the court delivers an irrevocable conclusion.

Public legal aid may be refused when it is abusively requested, when its estimated cost is disproportionate to the value of the subject-matter of the case and when it is not requested in order to safeguard a legitimate interest, or is requested for an action that is contrary to public or constitutional order.

If the claim for the settlement of which public legal aid is requested falls within the category of those that may be subjected to mediation or other alternative dispute resolution procedures, the application for public legal aid is likely to be rejected if proof is provided that the applicant for public legal aid had refused to conduct such procedure before the initiation of legal proceedings.

Public legal aid may be rejected when the applicant claims damages for injury to his/her image, honour or reputation, considering that he/she has not suffered any material injury, and when the application arises out of the applicant’s trade or self-employed profession.

Where public legal aid is granted to citizens of EU Member States or to other persons who are domiciled or habitually resident within the territory of a Member State, the Romanian central authority may refuse to transmit a legal aid application to another Member State if such application is clearly unfounded or exceeds the scope of Council Directive 2002/8/EC. If the legal aid application is rejected by the competent authority of the requested Member State, the Romanian central authority will ask the applicant to refund the translation expenses.

(*Articles 15, 16, 45 and 46 of Emergency Order No 51/2008 on public legal aid in civil matters, as approved by Law No 193/2008, as subsequently amended and supplemented).*

Additional information

Useful links:

National Union of Bar Associations in Romania (*Uniunea Naţională a Barourilor din România*), http://www.unbr.ro/

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