

Please note that the translation is a summary and is not an official version.

WRITTEN SUMMARY

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Act No 3226

Provision of legal aid to citizens on low incomes and other provisions

CHAPTER 1

GENERAL PROVISIONS

Section 1

Beneficiaries of legal aid

1. Nationals of European Union Member States who have a low income shall be eligible for legal aid. Nationals of third countries and stateless persons who have a low income shall also be eligible provided that they are domiciled or habitually resident in the European Union.
2. Persons with low income who are entitled to legal aid means persons whose annual family income is less than two-thirds the minimum annual personal pay stipulated by the national general Collective Labour Agreement.

Section 2

Procedure

1. Legal aid is provided on the basis of an application from the beneficiary. The application must state the subject of the trial or proceedings and the particulars demonstrating that the conditions are met for the aid to be granted.
2. Supporting documentation demonstrating the applicant's financial situation must be attached to the application [list of documents required], as well as proof of domicile/residence in the case of a third country national.
3. The application and supporting documents must be submitted at least 15 days prior to the trial or proceedings in respect of which legal aid is sought.
4. The application may be deemed admissible at face value. The judge responsible for examining it may question witnesses and the applicant, on oath or not, gather any necessary information and data; and summon the opposing party.

5. Reasons must be given for the acceptance or rejection of the application. A fresh application may be submitted if the factual circumstances have changed. Supplementary applications are always permitted.

Section 3

Appointment of a “duty lawyer”

[This section sets out the arrangements for each Bar Association to draw up a monthly list of lawyers who are on duty and can be called on to represent people receiving legal aid].

Section 4

Termination, cancellation and limitation of legal aid

1. Legal aid terminates on the death of the beneficiary. Proceedings that may not be suspended may be conducted subsequently on the basis of the aid granted.
2. Legal aid may be cancelled or limited by decision of the judge, *ex officio* or on a motion from the prosecutor, if it is shown that the conditions for the provision of the aid did not obtain or have ceased to obtain or have substantially changed.
3. In addition to cancellation, the applicant who qualified for legal aid on the basis of a false application or false data may be ordered to pay a fine of between €15 and €150. The fine does not affect the obligation to pay the amounts from which he had been exempted.

Section 5

Advisory aid

Advisory aid may be provided in criminal cases by the duty prosecutors and the supervisory prosecutors of the detention establishments and in civil cases by the presiding duty judge of the court of jurisdiction; they shall inform the interested parties of the possibility of applying for the legal aid scheme for people on low incomes.

CHAPTER 2

LEGAL AID IN CRIMINAL CASES

Section 6

Competent authority

1. The authority competent to examine the legal aid application in criminal cases is the presiding judge of the court before which the applicant’s case is pending a hearing or the means of appeal are to be exercised.
2. In the cases referred to in Sections 100(3), 200(1)(b), 340, 376 and 423(1) of the Code of Criminal Procedure, the counsel is appointed in accordance with the provisions of these sections; the conditions of Section 1 need not obtain and the procedure of Section 2 need not be followed. In the case of an application for cassation or a re-trial concerning a felony, the provisions of the first paragraph of Section 1 regarding legal domicile or residence need not obtain.

Section 7

Appointment of a duty lawyer in criminal proceedings

1. Legal aid in criminal cases takes the form of appointment of a lawyer.
2. [This paragraph lists the types of proceedings in which a lawyer is appointed].
3. [This paragraph lists offences for which a lawyer is appointed, such as torture, crimes against the person, offences that are dealt with by a three-member district court and for which the penalty is a custodial sentence of at least 6 months etc.]
4. For legal aid to be granted in cases involving appeals, the latter must be admissible and not patently unfounded.
5. The beneficiary is obliged to accept the lawyer assigned to him.
6. The appointment runs until the final completion of the trial or the procedural action at the same level of justice as well as for the exercise of an appeal.

CHAPTER 3

LEGAL AID IN CASES OF A CIVIL AND COMMERCIAL NATURE

Section 8

Competent authority

1. The authority competent to examine the legal aid application in cases of a civil or commercial nature is the justice of the peace, the judge of the one-member district court or the presiding judge of the court before which the case is pending or is to be initiated and, in the case of proceedings not connected with a trial, the justice of the peace in the applicant's place of residence.
2. The applicant can appeal to the three-member district court against the decision of the justice of the peace, the judge of the one-member district court or the presiding judge within 5 days of its being issued. The appeal is handled under the provisional remedies procedure.

Section 9

Content of legal aid

1. The provision of legal aid in cases of a civil or commercial nature takes the form of exemption from the obligation to pay part or the whole of the costs of the proceedings and, if specially requested, the appointment of a lawyer, notary and marshal with instructions to defend the beneficiary, represent him in court and afford him the assistance he needs to complete the necessary procedures.
2. The exemption from costs covers, in particular, stamp duties, court stamp duties, copy duties and supplements thereto, costs of witnesses and experts, fees or salary of the appointed lawyer, notary and marshal, and the obligation to give security for these costs.
3. Legal aid is granted separately for each trial, is valid for all levels of justice and for every court, and also covers the enforcement of the decision.

4. For legal aid to be granted in cases involving appeals, the latter must be admissible and not patently unfounded or futile. The significance of the case for the applicant is also taken into account.

5. The appointment of the lawyer counts as the beneficiary having given legal power of attorney.

6. The granting of legal aid does not affect the obligation to pay expenses awarded to the adversary.

Section 10

Special provisions for cross-border disputes

If the person applying for legal aid in a case of a civil or commercial nature is domiciled or habitually resides in another Member State of the European Union, the following special provisions apply:

(a) Legal aid may be granted to a person who satisfies the legal conditions, but whose family income exceeds the amount laid down in Section 1(2), if he demonstrates that he is unable to meet the legal expenses because of the difference in the cost of living between the Member State of his domicile or habitual residence and Greece;

(b) The exemption referred to in Section 9(1) may also cover:

(aa) the remuneration of an interpreter;

(bb) the costs of official translation of the documents needed to resolve the dispute; and

(cc) the expenditure the applicant has to meet for the travel of a person who is connected with supporting the applicant's case, if this person's physical presence in court is a requirement and the court decides that this person may not participate in the proceedings in some other way.

(c) Legal aid may also take the form of the appointment of a lawyer to provide legal advice in order to resolve the dispute before it reaches court. The appointment of a lawyer to provide legal advice is also possible for a person who is domiciled or habitually resident in Greece, but is applying for legal aid for a trial or procedural action in another Member State of the European Union until the receipt of the application for legal aid by the competent authority in the other country. Section 9(5) applies to such cases too.

Section 11

Forwarding applications

The authority responsible for the receipt of applications from people domiciled or habitually resident in Greece for the provision of legal aid by another member State of the European Union, provided the applications fall within the scope of Council Directive 2003/8EC, is the Ministry of Justice. The competent authority shall provide assistance to the applicant to ensure that the application is accompanied by the supporting documents, which, to its knowledge, are required for the examination of the application and shall also, if requested, provide free of charge any necessary translation of the application and supporting documents. The application shall be forwarded to the authority in the foreign

country within fifteen days of the day on which it was received, duly filled out and with the supporting documents translated. The documents forwarded do not have to be authenticated. All details regarding the submission and forwarding of applications for legal aid shall be laid down by decision of the Minister of Justice.

CHAPTER 4

PAYMENT AND RECOVERY OF EXPENSES

Section 12

Payment

1. Payment of legal costs shall be made in accordance with the relevant provisions and shall include the costs from which the beneficiary has been exempted as well as the remuneration of the lawyer and any other person to be borne by the State in accordance with this Act.

2. If the judgment awards costs against the beneficiary's adversary, the costs from which the beneficiary was exempted and the remuneration of the lawyer and any other person borne by the State shall be awarded to the State and recovered by it in accordance with the provisions governing the recovery of public revenue.

Section 13

Resources for the provision of legal aid

A special appropriation shall be entered each year in the Ministry of Justice budget to cover the remuneration of lawyers and other persons providing services under the legal aid scheme.

Section 14 and 15

[These sections concern the remuneration of legal aid lawyers].

Section 16

Final provisions

CHAPTER 5

OTHER PROVISIONS

[Sections 17 -22 do not concern legal aid]

Section 23

Entry into force

This Act shall enter into force as of its publication in the Government Gazette, with the exception of Section 10, which enters into force on 30 November 2004.