

## Government Decree on Legal Aid (388/2002; amendments up to 1008/2009 included)

### Section 1

- (1) Legal aid is granted on the basis of the available means and assets of the applicant, as provided in this Decree. The deductible of a recipient of legal aid is composed of a basic deductible and a supplementary deductible, as provided in sections 5–7.
- (2) Granting of legal aid is based on the information and evidence supplied by the applicant on his or her income, maintenance liability, expenses, assets and the matter for which legal aid is being sought. The prerequisites for legal aid shall be accounted for as reliably as possible, with regard to the provisions in section 10(2) of the Legal Aid Act (257/2002; *oikeusapulaki*). (3.12.2009/1008)

### Section 2

- (1) The available means are calculated by deducting the withholding taxes or advance taxes and the statutory charges payable by employees from the monthly income. The following expenses are also deducted from the income: reasonable housing expenses, day care fees, maintenance payments, payments in an enforcement procedure and payments in accordance with a debt adjustment payment schedule. (3.12.2009/1008)
- (2) If there are dependents in the household of the applicant, a deduction of EUR 300 for each child is made from the income. Maintenance payments, child maintenance allowances, survivors' pension, child benefits and child home care allowances are taken into account as income when calculating the available means of a custodian. If a dependent has regular income sufficient for his or her own maintenance, no deduction is made for his or her part. The deduction may also be made for a child over 18 years of age, if the applicant in reality maintains the child. (27.9.2007/867)

### Section 3

If a person under 18 years of age applies for legal aid, the available means of his or her custodians are not taken into account.

### Section 4 (3.12.2009/1008)

- (1) If legal aid is, under section 3(1) of the Legal Aid Act, determined based on the means of the applicant alone, the available means and assets are calculated in accordance with the provisions applicable to a single person. In this event, the expenses referred to in section 2 are taken into account in the calculation of available means in so far as the applicant in reality pays them. Children who are deemed to depend on the maintenance of the applicant are taken into account as dependents.
- (2) The supplementary deductible is determined in accordance with subsection 1 if it for special reasons would be unreasonable to take the assets of the applicant's spouse into account.

## Section 5 (3.12.2009/1008)

The basic deductible means the percentage of the attorney's fee and compensation for expenses, inclusive of VAT, that the recipient of legal aid is to pay. It is determined on the basis of the available means of the applicant, as follows:

Available means of a single person	Basic deductible
up to EUR 600	0 %
up to EUR 800	20 %
up to EUR 900	30 %
up to EUR 1,050	40 %
up to EUR 1,150	55 %
up to EUR 1,300	75 %
Available means of spouses, per person:	Basic deductible
up to EUR 550	0 %
up to EUR 700	20 %
up to EUR 800	30 %
up to EUR 1,000	40 %
up to EUR 1,100	55 %
up to EUR 1,200	75 %

## Section 6 (3.12.2009/1008)

Legal aid is not granted, if the available means of a single person exceed EUR 1,300 or the available means of spouses exceed EUR 1,200 per person.

## Section 7 (3.12.2009/1008)

- (1) The recipient of legal aid is charged a supplementary deductible, if the recipient and his or her spouse have assets other than those referred to in subsection 2 worth more than EUR 5,000. The amount of the supplementary deductible is half of the value of the assets in excess of EUR 5,000. The value of assets is calculated by deducting any debts for the assets from the current value of the assets. The supplementary deductible is used to cover that share of the attorney's fee and compensation for expenses which remains after the basic deductible in accordance with section 5 has been deducted from the fee and the compensation.
- (2) The following assets are not taken into account when determining the supplementary deductible:
  - (1) the permanent residence of the family, an ordinary holiday home and a car, if their value is in reasonable proportion to the size and needs of the family;
  - (2) a share in a decedent's estate in so far as the assets of the estate consist of other property than deposits and corresponding assets;
  - (3) property related to business or agricultural activities in so far as the sale of the property would cause significant disadvantage to the business or agricultural activities.
- (3) Debts taken out to acquire the assets referred to in subsection 2 above are not taken into account when determining the amount of the supplementary deductible.

## Section 8

- (1) The applicant must, upon request of the legal aid office, present proof of his or her income and of the expenses that are requested to be deducted as well as an account of his or her assets and debts. The legal aid office shall, however, verify the applicant's income primarily on the basis of the latest final tax statement, if the monthly income after deducting the withholding taxes or advance taxes and the statutory charges payable by employees is at most EUR 600 for a single person and at most EUR 550 per person for spouses. (3.12.2009/1008)
- (2) The applicant must present an account of his or her insurance policies which may contain cover for legal expenses applicable to the matter at hand and, where necessary, present the decision of the insurance company.

## Section 9 (3.12.2009/1008)

If an applicant requests that a private attorney be appointed, he or she must supply reasons for the need for such an attorney and provide sufficient information on the matter for which legal aid is being sought. In a matter heard by a court of law, the following information must be provided:

- (1) in a civil matter, the plaintiff and the defendant must present the application for a summons or a draft of the same, the response to the application for a summons or a draft of the same, or, on special grounds, some other sufficient information;
- (2) in a criminal matter, the defendant and the injured party must present the prosecutor's essential claims, the injured party's essential claims, the essential contents of a doctor's opinion, or other sufficient information;
- (3) in a petitionary matter, the petitioner and a party to the matter must present the petition, the response, or other sufficient information.

## Section 10

- (1) The following income types, among others, are taken into account as income:
  - (1) wages and salary;
  - (2) income from interests, dividends, rents and other capital income;
  - (3) business and professional income;
  - (4) maintenance payments and child maintenance allowances;
  - (5) unemployment allowances and payments from unemployment funds;
  - (6) accident insurance allowances and annuity;
  - (7) daily allowances and maternity allowances under the Health insurance act (1224/2004; *sairausvakuutuslaki*);
  - (8) national pensions and earnings-related pensions;
  - (9) financial aid for students;
  - (10) child benefits and child home care allowances.
- (2) Social benefits that are not generally dependent on income and that are granted for a certain purpose are not taken into account. (3.12.2009/1008)

## Section 11

In case of fluctuation in the income of an employee, the available means are calculated on the basis of the income from the preceding six months. The monthly available means of an entrepreneur are calculated on the basis of the annual earnings and capital income as confirmed in the final tax statement. If there have been essential changes in the activities after the preceding tax statement, the available means may be calculated on the basis of the income as estimated for the purposes of advance taxes.

## Section 12

- (1) Reasonable rents, apartment maintenance charges and house maintenance costs are accepted as housing expenses. In the absence of proof, at most EUR 250 is accepted as monthly house maintenance costs. The monthly interest payments on a mortgage are accepted as housing expenses for an owner-occupied residence. Housing expenses may be disregarded in so far as the residence is larger than necessary in view of the size of the family. Housing allowances and housing supplements for students are deducted from the housing expenses.  
(27.9.2007/867)
- (2) If the applicant or his or her spouse is being treated in an institution, the treatment expenses may also be taken into account as housing expenses in the calculation of the available means.

## Section 13

Monthly payments made by the applicant or the spouse in accordance with a court order or a confirmed maintenance agreement are accepted as maintenance payments. Subject to reliable proof, also maintenance payments made regularly without a court order or agreement may be accepted.

## Section 14

- (1) Regular monthly payments made to the enforcement authorities are accepted as payments in an enforcement procedure.
- (2) Payments made to creditors in accordance with a payment schedule referred to in the Act on the Adjustment of the Debts of a Private Individual (57/1993; *laki yksityishenkilön velkajärjestelystä*) are accepted, provided that the debtor has adhered to the payment schedule. On the same conditions, payments based on a written negotiated settlement covering all the debts of the debtor, as referred to in the Act on the Adjustment of the Debts of a Private Individual, are also accepted.
- (3) When legal aid is being sought in a matter under the Act on the Adjustment of the Debts of a Private Individual, also the funds that the debtor actually uses for debt management costs are deducted in the calculation of available means.

## Sections 15-16

*Sections 15 and 16 have been repealed.*

## Section 17 (3.12.2009/1008)

When legal aid is being sought for an inventory of a decedent's estate, the assets of the decedent are added, in full and before covering any debts, to the supplementary deductible referred to in section 7. In the inventory of an estate with no assets, the State Treasury or another instance liable to make the inventory may, for special reasons, be provided legal aid for free.

## Section 18 (3.12.2009/1008)

When legal aid has been granted for a distribution of a decedent's estate or of matrimonial assets, the inheritance or the adjustment received by the applicant is, after the conclusion of the matter, taken into account as his or her assets, and the final supplementary deductible referred to in section 7 is confirmed only thereafter for the

recipient of legal aid. The same procedure applies when the recipient of legal aid gains a benefit of monetary value in another matter for which legal aid has been granted.

#### Section 19 (25.11.2004/997)

- (1) Legal aid offices shall function as the transmitting authorities referred to in the Council Directive 2002/8/EC to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes. In family law matters, the Ministry of Justice may also function as a transmitting authority. Helsinki Legal Aid Office shall function as the receiving authority referred to in the above mentioned Directive.
- (2) Legal aid applications and supporting documents may be submitted to the receiving authority referred to in subsection 1 also in English.

#### Section 20 (27.9.2007/867)

The legal aid charge is EUR 70. No legal aid charge shall be collected, if the applicant receives legal aid for free.

#### Section 21

Legal aid may in the legal aid decision be limited to given measures and a given number of hours, if this is justified in view of the nature and significance of the matter, the value of the object of the dispute and the circumstances as a whole.

#### Section 22

- (1) The court must send its decisions that are based on a submission to the legal aid office for information.
- (2) The legal aid office must send its decisions on the amendment or cessation of legal aid to the court seized of the main matter for information.

#### Section 23

A decision to grant legal aid, based on a submission handled during the statutory appeal or response period, must be sent to the appellate court by virtue of office.

#### Section 24

When an appellate court grants retroactive legal aid, to cover such fees and expenses of a private attorney or other expenses that the party opposing the recipient of legal aid has been obligated by a final judgment of the subordinate court to compensate as legal costs to the recipient, the appellate court must notify the Legal Register Centre of the decision. The Legal Register Centre shall collect the receivable to the state.

#### Section 25

When in a matter where legal aid has been granted, an insurance benefit has been granted after the issue of the final decision in the main matter, the legal aid office shall collect from the insurance company the sum equivalent to the amount paid out as legal aid or to the amount of the fee and expenses of the legal aid office.

## Section 26

- (1) Upon request of the suspect in a criminal case, the legal aid office shall issue an account of the financial criteria for legal aid under this Act, based on which the court may order that the compensation payable to the defence counsel of the convict, as referred to in Chapter 2, section 11 of the Criminal Procedure Act (689/1997; *laki oikeudenkäynnistä rikosasioissa*), shall be paid from state funds.
- (2) Upon request of an applicant for compensation, the legal aid office shall issue an account of the financial criteria for legal aid under this Act, based on which the State Treasury may make a decision on the applicant's right to compensation for application expenses, as provided in section 29(1) of the Act on Compensation for Crime Damage (1204/2005; *rikosvahinkolaki*). (29.12.2005/1208)

## Section 27

An application for legal aid, an account referred to in section 26, a decision to grant legal aid and a submission shall, in so far as possible, be drawn up in accordance with the forms approved by the Ministry of Justice for the said documents.

## Section 28

Where necessary, the Ministry of Justice shall issue further provisions on the application of this Decree.

## Section 29

- (1) This Decree enters into force on 1 June 2002.
- (2) This Decree applies when legal aid is being granted after the said date.