

LEGAL AID IN NATIONAL LAWS: Germany

Germany

<p>Is legal aid available? Who is eligible for it?</p>	<p>Everyone is entitled to advisory assistance (<i>Beratungshilfe</i>) in all legal matters, including legal gender recognition (according to the Transsexuellengesetz TSG). This means that one can receive expert legal advice at a very low cost. If more help is needed to defend rights against third parties, then advisory assistance can also include lawyer's fees for representation. Advisory assistance is available only for extrajudicial cases.</p> <p>Advisory assistance can be obtained by anyone whose financial situation would make them eligible, according to the provisions of the Civil Procedure Code, to receive legal aid for court costs (<i>Prozesskostenhilfe</i>) without having to pay instalments from their monthly income or using their assets.</p>
<p>What is the criteria to be eligible for legal aid?</p>	<ul style="list-style-type: none">• Broadly, anyone receiving social welfare benefits (according to SGB II or SGB XII) is likely to be entitled to receive legal aid. In detail, the plaintiff's gross income, including child benefits, is taken as a basis for the calculation. The following amounts are deducted: an allowance of €473 for the party; a further allowance of €473 for their spouse or civil partner; an allowance based on the age of every child entitled to maintenance; housing costs (rent, ancillary rental costs, heating); other potential costs related to special burdens (e.g. physical disability). The remainder constitutes the available income.• The intended legal action or defense must have a reasonable chance of success and must not be frivolous.
<p>Where can you file the application for legal aid?</p>	<p>The application for legal aid can be filed at the local court, to the senior judicial officer responsible for advisory assistance. While the application can be informal, a specific form detailing the person and economic situation has to be used. The local court is responsible for assisting people personally by providing information or by referring them to other options. If this is not possible, it will issue a certificate entitling advisory assistance (<i>Beratungshilfeschein</i>).</p> <p>When applying for legal gender recognition, the request for legal aid can be included in the first informal letter to the court.</p>
<p>What expenses are covered?</p>	<p>Depending on the available income, legal aid will either completely or partially cover a person's share of the court costs, the fees of their lawyer, and the costs for the court-ordered expertise in cases of legal gender recognition.</p>

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	<p>Legal aid does not cover any costs person may have to pay to the opposing party, particularly the fees of the opposing lawyer in cases of losing.</p>
Is there freedom to choose a lawyer?	<p>Once the person has the certificate entitling advisory assistance, one can look for someone to advise them. All lawyers, as well as non-lawyer legal advisers (<i>Rechtsbeistände</i>) organised in a professional chamber (<i>Rechtsanwaltskammer</i>), are authorised to provide advisory assistance.</p>
Further information	<p>Ministry of Justice and Consumer Protection: English: http://www.bmju.de/SharedDocs/Publikationen/DE/Beratungs_PK_H_engl.pdf?__blob=publicationFile&v=5 German: http://www.bmju.de/SharedDocs/Publikationen/DE/Beratungs_PK_H.html?nn=6765948 Declaration about the personal and economic situation (German): http://www.bmju.de/SharedDocs/Downloads/DE/Formulare/Erklaerung_ueber_die_persoenlichen_und_wirtschaftlichen_Verhaeltnisse_bei_Prozess_oder_Verfahrenskostenhilfe.pdf?__blob=publicationFile&v=4</p>