

Legal aid and procedural cost aid (PKH, VKH)



What does legal aid or legal aid mean?

If it is necessary to initiate legal proceedings or to defend oneself in such proceedings, the granting of legal aid or procedural aid - abbreviated to PKH or VKH - can be applied for if one's income and assets are low.

If PKH or VKH is granted, **one's own costs of litigation** are borne in whole or in part by the state.

→ However, there is still a cost risk: if you lose the case, you have to pay the costs of the opponent - even if PKH is granted.

Who is entitled to legal aid or procedural cost aid?

1. the party whose intended legal action or defence against such action offers sufficient prospects of success and is not want on.
2. In addition, the petitioning party must not be personally and economically able to conduct the lawsuit.

The party must use her assets as far as this is reasonable under consideration of § 90 SGB XII.

She must also use her income. The amounts specified in section 115 (1) of the Code of Civil Procedure are deducted from this income and the monthly instalments for the repayment of the PKH or VKH are set at half of the income to be used according to the income determined in this way.

If the instalment amounts to less than € 10, PKH or VKH shall be granted free of instalments.

If the income to be applied is more than € 600, the instalment shall be set at € 300 plus that part of the income to be applied which exceeds € 600.

PKH or VKH shall not be granted if the costs of the litigation would probably not exceed four monthly instalments (section 115 (4) ZPO).

A maximum of 48 monthly instalments shall be paid in total (section 115(2) ZPO). During this period, the party who has been granted PKH or VKH is obliged to notify the court of any significant changes in personal or financial

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circumstances concerning the respective proceedings and to submit the declarations required by the court without delay using the official form.

Otherwise, the granting of PKH or VKH may be revoked.

→ There shall be no entitlement to PKH or VKH if a legal expenses insurance or another body pays the costs of the proceedings.

How and where can legal aid be obtained?

A written application is required. The application must describe the dispute in detail, citing all evidence.

The application must also be accompanied by the "Declaration of personal and financial circumstances", which is available as an official form from courts and lawyers. The declarations made in this form must be substantiated by up-to-date supporting documents.

The application shall be filed with the trial court having jurisdiction over the dispute or, in matters of compulsory enforcement, with the competent enforcement court.

It may be filed on behalf of the party by his or her lawyer or taken up by the legal application office of the local court having jurisdiction over the party's place of residence.