

Special representative

Article 101

(1) (Supplemented, SG No. 48/2023) Where the interests of the minor or underage victim and of their parent, custodian or guardian are contradictory or the parent, custodian or guardian do not perform their obligations under Articles 125, 129, 164 and 168 of the Family Code, the respective body shall appoint for them a special representative who is a lawyer.

(2) A special representative who is a lawyer shall also be appointed for the victim, where he/she is incapacitated or has limited capacity and his/her interests stand in contradiction to those of his/her custodian or guardian.

(3) The special representative shall participate as attorney in the criminal proceedings.

(4) The provisions of Articles 91, paragraph 3 and 92 shall also apply to the special representative *mutatis mutandis*.

LAW ON LEGAL AID

Chapter Three

TYPE AND SCOPE OF LEGAL AID

Art. 21. The types of legal aid are:

1. (supplemented, SG No. 13/2017, SG No. 102/2022) consultation and/or preparation of documents with a view to reaching an agreement prior to the commencement of court proceedings or for bringing a case, for commencing or conducting proceedings for the issuance of an individual administrative act and/or its administrative challenge, including consultation and/or preparation of documents under Chapter Five "a", Section II;

2. (amend. - SG 102/02) legal representation;

3. (amend. - SG 102/02) representation in out-of-court proceedings;

4. (amend. - 17 of 2006, suppl., SG 82 of 2011, in force from 1.01.2012, amend., SG 53 of 2014, SG 56 of 2018) representation in detention under Art. 72, par. 1 of the Ministry of the Interior Act, under Art. 16a of the Customs Act and under Art. 124b, par. 1 of the State Agency for National Security Act.

Art. 22. (amend. - SG 28/2013) (1) (amend. - SG 102/2022) The legal aid under Art. 21, items 1 and 3 shall be free of charge and shall be provided to:

1. persons and families who meet the conditions for receiving monthly assistance pursuant to Articles 9 and 10 of the Regulations for the Implementation of the Social Assistance Act (promulgated, State Gazette, No. 133/98; amended, State Gazette, No. 38, 42 and 112/1999), No 30, 48 and 98 of 2000; amended, No 100 of 2000; amended, Nos 19 and 97 of 2001, Nos 26, 46, 81 and 118 of 2002, No 40 of 2003, No 115 of 2004, 31 and 103 of 2005, 54 and 93 of 2006, 101 of 2007, 26 of 2009, 27, 41, 43, 45 and 50 of 2010, 63 of 2011 and 17 of 2013);

2. persons and families eligible for targeted heating assistance for the previous or current heating season;

3. (amend. - SG 24/2019, in force from 1.07.2020 - amend., SG 101/2019) persons using social or integrated health and social services for residential care, pregnant women and mothers at risk of abandoning their children, using social services for the prevention of abandonment;

4. children placed in foster families or in the families of relatives or relatives under the Child Protection Act;

5. a child at risk within the meaning of the Child Protection Act;

6. (amend. - SG 13/2017), 102 of 2022) persons referred to in Articles 143 and 144 of the Family Code, of persons under 21 years of age, as well as of persons over 21 years of age, for maintenance obligations arising before the age of 21 years, in accordance with Council

Regulation (EC) No 4 of 2009 of 18 December 2008. on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 7/1 of 10 January 2009) and the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (OJ L 192/51 of 22 July 2011);

7. victims of domestic or sexual violence or of trafficking in human beings who lack the means and wish to have recourse to a lawyer;

8. (amend. - SG 102/102) persons seeking or granted international protection or enjoying temporary protection under the Asylum and Refugees Act, for whom the provision of legal aid is not due to another legal ground;

9. foreigners who are subject to a compulsory administrative measure and foreigners placed in a special home for temporary accommodation of foreigners under the Aliens in the Republic of Bulgaria Act, who do not have the means and wish to be defended by a lawyer;

10. (new - SG 97/2016) persons who have been denied or have had their status of stateless person in the Republic of Bulgaria revoked or the proceedings for granting the status of stateless person under the Aliens Act in the Republic of Bulgaria have been terminated, who do not have means and wish to use legal counsel;

11. (new - SG 102/102) persons whose prohibition is sought, as well as persons placed under prohibition;

12. (new - SG 102/102 of 2022) persons with disabilities receiving monthly support under the Disabled Persons Act whose monthly income is insufficient to authorise a lawyer.

(2) (new - SG 102/02) In the cases referred to in par. 7, 9, 10 and 12, the NBPB shall form its judgement on the provision of legal aid, taking into account the circumstances referred to in Art. 23, para. 3, established by documents from the relevant competent authorities, and in accordance with the poverty line established for the country.

(3) (suppl. - SG 13/2017, former para. 2, amend., SG 102/2022) The facts and circumstances referred to in para. 1 shall be certified by documents issued by the relevant competent authorities and by a declaration of the person's family and property status in a form approved by the NBPB.

(4) (new, SG 13/2017, former para. 3, SG 102/2022) Where the persons applying for legal aid do not certify a circumstance under para. (1), the NCLB shall form its judgement on the provision of legal aid taking into account the circumstances referred to in Art. 23, par. 3 established by documents from the relevant competent authorities and in accordance with the poverty line established for the country.

(5) (New, SG 92/2018, former para. 4, amend., SG 102/2022) In the cases where the legal aid is provided by the NBPB, the information referred to in paras. 2 and 3 shall be collected ex officio, and the Bureau shall obtain the necessary documents from the relevant competent authorities electronically. The applicant for legal aid shall certify his/her income with a document or consent to the information about it being requested ex officio from the competent authorities.

Art. 23 (1) (Suppl. - 32 of 2010, in force from 28.05.2010, amend., SG 102 of 2022) The system of legal aid under Article 21, paragraph 2 shall cover the cases in which, by virtue of a law, it is obligatory to provide for a lawyer's defence, reserve counsel or representation.

(2) (amend. - (2) The legal aid system shall also cover cases where the accused, defendant or party to a criminal, civil or administrative case does not have the means to pay for a lawyer, wishes to have one and the interests of justice so require. In such cases, the person shall not be liable to reimbursement of the costs of the legal aid provided.

(3) (amend. - 32 of 2010, in force from 28.05.2010, SG 28 of 2013, suppl. 92 of 2018) In civil and administrative cases, legal aid shall be granted in cases where, on the basis of evidence submitted by the relevant competent authorities, the court, respectively the President of the NBPB, considers that the party does not have the means to pay an advocate's fee. The court,

respectively the President of the NBPB, shall form its judgement taking into account:

1. the income of the person or his family;
2. the financial situation as certified by a declaration;
3. marital status;
4. state of health;
5. employment;
6. age;
7. other circumstances.

(4) (new - SG 66/2023, in force from 1.08.2023) In proceedings under the Law on Protection from Domestic Violence, the court shall allow legal aid, taking into account any state of dependence of the victim on the perpetrator, leading to the inability to use the property owned, as well as other circumstances preventing effective legal defence.

(5) (amend. - (5) In criminal cases, the assessment that the accused or the defendant has no means to pay the lawyer's fee shall be made by the body which directs the procedural actions, on the basis of the ex officio established financial situation of the person in the specific case and of the circumstances referred to in par. 3(1), (3), (4), (5), (6) and (7). For the private prosecutor, the civil claimant, the civil defendant and the private complainant, the assessment shall be made in accordance with the procedure laid down in par. 3.