



France

SNAPSHOT

**€119
MILLION**

ANNUAL EXPENDITURE
ON CRIMINAL
LEGAL AID

€1.8

PER CAPITA

€398

AVERAGE LEGAL AID
FEES PER CASE

Legal culture and poor rates of pay raise concerns about quality of legal aid in France.

OUTLINE OF THE LEGAL AID SYSTEM

HOW IS IT ORGANISED?

Legal aid committees (*le bureau d'aide juridictionnelle*) within the French courts receive applications and determine eligibility for legal aid. The committees include a magistrate, a member of the general public, a member of the local bar and additional representatives. Once an eligible person is approved for legal aid, the president of the local bar association appoints an attorney. One may also request a specific lawyer, and the bar association will attempt to procure the lawyer if he or she is available. Bar associations take into consideration the background of lawyers when determining how to place a lawyer. For instance, only lawyers with experience in criminal law will be appointed as defense counsel for an accused individual. Similarly, lawyers experienced with working with minors will be appointed to juvenile cases.

Legal aid includes two types of services. The first is *l'aide juridictionnelle*, which provides for court proceedings as well as out of court settlements, for civil, criminal, and administrative matters. The second is *l'accès au droit*, which provides for legal consultations and assistance. Lawyers are remunerated for *l'aide juridictionnelle* work but not for *l'accès au droit* work.

HOW IS IT FINANCED?

The state provides funds for legal aid through the Ministry of Justice. In 2012, the total expenditure on legal aid was €351 million, or 0.02% of GDP. Only one third of that budget is allocated to criminal legal aid. Private bar associations may also choose to contribute additional funds to supplement state subsidies for legal aid. Non-governmental organizations and non-profits that provide legal services to indigent individuals also receive grants from the government to carry out their work.

Payments to individual legal aid lawyers are calculated by how many units are allocated to the case, which is determined by the bar association. Each unit is worth €300. 2,283,883 units were allocated in 2012 for criminal cases, and the average expenditure per case was €398. A judge has discretion to require the losing party of a case to pay the legal fees of the other party, including fees paid via legal aid.

In 2013, France eliminated its €35 tax on litigants, which caused a deficit of 60 million euros. France is in the process of determining new ways of financing legal aid, including lowering compensation for lawyers and recovering costs from awards paid to litigants. The proposals have been met with discontent, as most lawyers believe they are not paid adequately and there have been calls for at least a twofold increase.

HOW IS IT MONITORED?

The legal aid committees that assess the eligibility for and allocation of legal aid do not monitor the quality of legal services provided. Rather bar associations evaluate the skills and qualities of lawyers to determine if they



LEGAL AID IN: France

MAJOR ISSUES WITH LEGAL AID

Lack of sufficient funding for legal aid and poor remuneration for legal aid lawyers, leading to discontent and protest among the profession.

French legal culture does not highly value defence work, and inexperienced lawyers are more likely to take on legal aid cases, resulting in concerns about the quality of representation.

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are providing adequate services. Clients who have grievances about the lawyer's services may bring their complaints to the local bar association.

ELIGIBILITY

WHO IS ELIGIBLE FOR LEGAL AID?

Anyone who is physically and legally in France is eligible for legal aid if they meet the means and merits test. Those requesting legal aid must exhaust other means of funding first, such as insurance. Victims of crimes may access legal aid free of any charges, regardless of income. Legal aid is available for any legal issue and is not confined to criminal law.

MEANS AND MERITS TEST

France employs a means test and provides legal aid on a sliding scale based on need which is re-evaluated on an annual basis. As of 2014, the maximum net income to obtain 100% legal assistance is €936 per month. The maximum increases by €167 for every two dependent persons in the household and €106 for each of any other dependant persons. Those making between €1299 to €1404 a month can receive 15% of the cost of legal assistance through legal aid.

THE REALITIES OF ACCESS TO LEGAL AID

ACCESS TO LEGAL AID DURING INVESTIGATIVE STAGE

In 2011, France passed a law reforming the *Garde à Vue* procedure (used when someone is arrested and detained by the police) to remove limitations on the right to early access to a lawyer. Previously, access to a lawyer was not guaranteed; it was limited to a 30 minute consultation and lawyers could be excluded from interrogations. Now, police officials must inform the arrestee that he or she has the right to a lawyer. Once a person invokes their right to counsel, questioning must cease for at least two hours to give the lawyer time to reach the police station, and the lawyer may attend all interrogations. The appointment of a lawyer (who is "*commis d'office*"—mandatorily assigned by the local bar president) is separate from the ordinary legal aid system. Those who are not eligible for legal aid must repay the cost of this lawyer. Bar associations across France have had varying success responding to this new law, with some bars creating telephone hotlines for arrested persons to call for assistance.

In exceptional circumstances, including serious drug trafficking, organized crime, terrorism, extortion, and conspiracy, authorities may prevent an individual from consulting with an attorney.

QUALITY OF LEGAL AID AND EFFECTIVE CRIMINAL DEFENCE

French legal culture creates a professional divide between prosecutors and judges, and defence lawyers. Prosecutors and judges share a common training and view their role as dominant, and the legal tradition does not typically support a role for strong, pro-active, defence lawyers. This is exacerbated by the low rate of remuneration for legal aid work, and the fact that most legal aid work is carried out by young attorneys as part of their training, who are unlikely to have the confidence or skills to stand up to a corps of more experienced judges and prosecutors. This raises concerns about equality of arms.



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