

# VAA Information



To members of the VAA

## Legal protection guidelines of the VAA

Dear Member,

In the VAA you are entitled to legal advice, legal aid (out-of-court representation) and legal protection (in-court representation). The scope of these services and the relevant terms and conditions are regulated in the enclosed "Guidelines for the Provision of Legal Protection"

Your point of contact is either the VAA office in Cologne or – for members of the new federal states and Berlin – the VAA office in Berlin. The initial contact may be made in writing, over the phone or by fax. One of the VAA lawyers will then address your questions.

As a member of the association, you receive advice, legal aid and legal protection free of charge. Furthermore, as part of its legal protection service, the VAA bears all in-court and out-of-court-costs even if this involves more than one instance of the court system.

Where legal proceedings are unavoidable, legal representation is normally provided by a specialist VAA lawyer. Note: If a lawyer outside the VAA is appointed to represent the member, the Association will not reimburse any lawyer's costs hereby incurred. The only exception to this ruling is where the lawyer has been appointed with the express agreement of the VAA. In such cases, bearing in mind the cost aspects, there must be special reasons (cf. Section 9 of the Legal Protection Guidelines).

Yours faithfully,

The VAA Office

## **Guidelines for the Provision of Legal Protection**

The VAA represents the interests of its ordinary members (including inactive members) in all legal questions relating to labour law, protection of inventions and social security law that arise from their employment relationship. Furthermore, it represents its ordinary members to the same extent in questions of civil service law. The Executive Board offers

- a) Advice
- b) Legal aid
- c) Legal protection

in accordance with the following terms and conditions:

### **Advice**

#### **Section 1**

Advice is provided by the office verbally or in writing and, possibly, with the involvement of the permanent legal adviser. Such information is non-binding.

Entitlement to the provision of advice starts one month after joining the Association. This waiting time does not apply in the case of contract advice for industry newcomers.

### **Legal aid**

#### **Section 2**

The Association provides legal aid (i.e. out-of-court representation) for its members in the event of disputes. This may be provided in writing or verbally.

Entitlement to the provision of legal aid starts 3 months after joining the VAA. The provision of legal aid ends upon the amicable settlement of the dispute.

### **Legal protection**

#### **Section 3**

Entitlement to the provision of legal protection (i.e. in-court representation) starts one month after joining the VAA.\*

Legal protection shall also be provided in cases where a member is involved in court proceedings as a result of public advocacy in the interests of the Association.

Legal protection may be provided also in cases that do not relate to labour law, protection of inventions or social security law but whose settlement is in the general interests of the Association and that are at least indirectly linked to the professional activity.

As part of the legal protection provided, the Association shall give the member suitable representation free of charge in the case of court proceedings and shall bear any costs imposed on the member. The association shall decide on what is suitable representation at its discretion.

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\*Ordinary members with the position of legal representative of a legal entity shall only receive legal protection for disputes arising from the employment relationship if – notwithstanding the statutory responsibility of the civil courts – the labour court responsibility is expressly agreed.

In issues involving employee inventions, the VAA will represent its members without restriction before the arbitration board at the German Patent and Trademark Office. The Association is entitled to refer the member initially to arbitration proceedings. Free inventions and inventions that have become free are not covered by the VAA's legal protection. In situations where the issue is whether the invention is a free invention or a service invention, the VAA shall only provide legal protection where the member is seeking a declaration that the invention is a service invention.

In issues involving legal proceedings relating to employee inventions, the legal protection of the Association is restricted, such that the Association shall reimburse costs incurred by the member (lawyer, court and other costs) up to a total of EUR 10,000, which covers all instances of the court system. Costs in excess of this amount shall be borne by the member him/herself.

Legal protection for members working outside the Federal Republic of Germany shall only be provided if the proceedings can be brought before a court of the Federal Republic of Germany.

**Refusal of legal aid and legal protection**

**Section 4**

Legal aid and legal protection shall be refused in disputes whose legal prosecution or defence offers insufficient prospects of success or appears wilful. They can be refused for disputes that arose before the member joined the Association. In such cases the provision of advice may also be refused.

A dispute is considered to have arisen at the point in time at which the member, the opposing party or a third party has – or is said to have – infringed legal obligations or legal regulations. Legal protection can also be refused if it was removed from a member in earlier proceedings as per Section 7.

**Form and content of applications for legal aid and legal protection**

**Section 5**

Applications for legal protection must be made to the VAA office. In addition to evidence of payment of the membership fee, they must also contain a detailed description of the facts of the dispute enclosing all documents needed to assess the case (e.g. employment contract, work regulations, statutes of the social security body, correspondence with the opposing party etc.).

**Decision on provision of legal aid and legal protection**

**Section 6**

The VAA office shall decide on the provision of advice and legal aid. The association's executive board shall decide on the provision and extent of legal protection. Such decisions shall be taken at the discretion of these bodies after due consideration. Any decision on the refusal to provide legal protection must be explained giving reasons. The provision of legal protection in cases as per Section 3 Paragraph 3 is at the discretion of the association's executive board.

The legal protection in each case covers one instance of the court system.

**Subsequent removal of legal aid and legal protection**

**Section 7**

Legal aid and legal protection can be withdrawn if facts subsequently come to light that would have justified prior refusal. Legal protection can also be withdrawn if the member contravenes the instructions of the association as per Section 8 or if his or her membership expires.

**Special conditions for legal protection**

**Section 8**

Notwithstanding the personal responsibility of the member to conduct the proceedings in a proper manner, legal protection issues must be conducted in accordance with the instructions of the VAA or of the representative appointed by the VAA. The conclusion of a settlement, withdrawal of a claim, or agreement to withdrawal of a claim by the opposing party require the consent of the association.

**Costs for advice, legal aid and legal protection proceedings**

**Section 9**

Advice and legal aid are provided free of charge. In legal protection proceedings where the opposing party reimburses costs, the member shall reimburse any sums provided in advance by the Association.

Otherwise, the member is only obliged to reimburse sums provided by the association if legal protection is subsequently withdrawn from him or her as per Section 7.

If the member seeking legal protection has appointed a lawyer as his or her representative without the approval of the association, these costs shall be borne by the member.

**Regulation for surviving dependants**

**Section 10**

The above provisions apply analogously to surviving dependants of deceased members.

**Special regulation for student members**

**Section 11**

Notwithstanding the above provisions, extraordinary members as per Section 3 Paragraph 5 of the Statutes (student members) may receive advice as per Section 1 without a preliminary waiting time.

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\*Ordinary members with the position of legal representative of a legal entity shall only receive legal protection for disputes arising from the employment relationship if – notwithstanding the statutory responsibility of the civil courts – the labour court responsibility is expressly agreed.