



Funding for Language Mediation

Language mediation is used here as a general term and includes translations (written), interpreting services and language mediation.

Translation: Is the written translation of a text.

Interpreting services: Is the professional oral translation by an interpreter (usually sworn in).

Language mediation: Is the oral translation by a person who understands and speaks both relevant languages but may not be appropriately trained.

There are differences as to whether language mediation is state-funded. This depends on the reason for the communication.

What is language mediation needed for?

1. Language mediation for communication with an authority
2. Language mediation for health services
3. Language mediation for legal disputes

General note: If you have any questions or need help, please contact an advice centre or your lawyer.

1. Language mediation for communication with an authority

If the authority requires something from you and communication is not possible without help, the authority must organise the language mediation and bear the costs. If the authority then fails to organise the mediation, this is usually unlawful. The demand that you organize language mediation yourself is also usually unlawful.

If you require something from the authorities, the law says that you are responsible for communication. This means that you are supposed to organise the language mediation yourself and pay the costs.

In the case of questions of elementary care, such as housing, food and health, the responsible authority is obliged to provide language mediation. This is the case if you would not be able to receive the benefit without language mediation.

You are, however, obliged to cooperate as far as you possibly can, for example, by making yourself aware of information sheets in your language or by bringing along a person who is familiar with the language, if this is possible for you. If this is not possible, the authority has the obligation to organise a language mediator. The authority may charge you for this. Both you and the authority must keep the costs as low as possible. The authorities must inform you in advance that costs will be incurred.

Documents in a non-German language must be accepted by the authority. If the documents are required or important, the authority must check whether they are understood by someone within the authority.

Note: Unfortunately, you cannot check if the documents are understood by the authority. But in certain situations, you already know that one language is spoken (e.g. English) or that a member of staff could help with another language. If this is the case, it would be unlawful to charge you for language mediation.

If no person in the authority understands the relevant language, you are responsible for organising the translation. If you do not provide a translation, the authority can organise a translation itself. You will then have to pay the costs.

Whether costs for language mediation are charged depends on the »Gebührengesetze« (law on public charges). As a general orientation: if communication without language mediation is typically not possible (e.g. communication with refugees who have only recently arrived in Germany), it is highly likely that no costs will be charged. This applies, for example, to administrative procedures for asylum seekers under the »Asylgesetz« (AsylG – asylum law) or the »Asylbewerberleistungsgesetz« (AsylbLG – law of benefits for asylum seekers):

Often the law also contains hardship provisions. Costs can be covered »to avoid hardship« (»zur Vermeidung sozialer Härten«). For example in the case of benefits which secure your livelihood.

The decision as to whether the costs are covered by the authority or yourself is called an »Verwaltungsakt« (administrative act). The authority must explain to you in writing why you should pay what amount of money. This letter is called a »Kostenbescheid« (notice of costs).

You can appeal against this official decision. You should always check the »Kostenbescheid« (notice of costs). If the costs for the language mediation were not necessary or the authority has acted unlawfully, you do not have to pay. In this case, you should appeal against the »Bescheid« (notice).

What can you do?

1. Check whether you need language mediation. If your knowledge of German is sufficient for communication and you can explain everything that is important to you in German, the costs for the language mediation will not be covered by the authority.
2. If there are application forms or information sheets in other languages that you understand, the authority must inform you of this.
3. If you need help with communication: you can bring someone to help you with language to an appointment with the authority. If this is not possible, you should inform the authority before the appointment. You may then have to submit a written application.
4. The authority must then check whether a language mediator is available free of charge. The authority must also check whether language mediation by a member of the authority's staff is possible.
5. If there are any problems with the language mediation or if you notice any serious mistakes, please say something. If you are unable to do so, write down what happened and keep the notes. If required, talk to an advice centre or your lawyer.

6. If the authority says that you should pay the costs of the language mediation, the authority must send you a letter (»Kostenbescheid« [notice of costs]). You should check this »Bescheid« notice carefully. What is important is how the authority justifies the decision and whether the authority has examined other regulations (e.g. a possible relief of costs). If the notice is incorrect, you should file an appeal (»Widerspruch einlegen«) in writing.

If you have any questions, please contact an advice centre or your lawyer.

Special regulations on costs:

- In official asylum procedures, the costs of language mediation are paid by the authorities: this is stated in §17 Asylgesetz (AsylG) »Hinzuziehung von Dolmetscher*innen auf Kosten der Behörde« (consultation of an interpreter at the expense of the authorities).
- In the case of child and youth welfare services, the youth welfare service provider bears the costs of language mediation: in accordance with §89 d Sozialgesetzbuch Acht (SGB VIII).
- If there is a legal guardian or caregiver, this person is responsible for the costs of language mediation. The costs are included in the »Vergütungspauschale« (fixed amount of compensation) of the guardian (§§4, 5 Vormünder- und Betreuervergütungsgesetz [VBVG])

2. Language mediation for access to health care services

There are also other costs for language mediation which has nothing to do with communication with the authority. For example, these could be costs for language mediation during a visit to a doctor or to a hospital.

In general:

Costs for language mediation cannot be billed to health insurance companies. If you stay in a hospital, the clinic is responsible for communicating with you as a patient. The clinic must inform you about treatments in such a way that you can decide whether or not the treatment should be carried out. The clinic must cover the

costs of language mediation if communication is otherwise not possible. Communication is possible if, for example, staff or relatives can take care of language mediation.

Benefits for asylum seekers (AsylbLG)/ Benefits according to »Sozialgesetzbuch Zwölf« (SGB XII):

If you receive benefits under the AsylbLG, you can apply for health care and the necessary language costs at the authority responsible for you.

If you have been in Germany for less than 18 months, your right to medical care is limited. As a general rule, you will only receive the necessary medical treatment of acute illnesses and states of pain as well as »other services (sonstige Leistungen)« for recovery or improvement of illness (§ 4 Abs. 1 S. 1 AsylbLG). If you have a right to these services and you need language mediation to receive them, then the authority must also pay the costs of language mediation. The costs must also be covered for the treatment of victims of human trafficking, persons with mental illness and persons who have suffered torture, rape or other serious forms of psychological, physical or sexual violence.

If you have been in Germany for more than 18 months, you will receive an electronic health card which you can use to receive health services without having to apply for them beforehand. However, if you need language mediation for these services, you must apply for it at the responsible authority. In this case, the authority from which you receive benefits according to AsylbLG is responsible. If the treatment is absolutely necessary and only possible through language mediation, the authority must pay the language mediation costs according to § 73 SGB XII. The authority must also bear the costs, if the treatment is intended for victims of human trafficking, persons with mental illness and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

If you receive benefits from the job centre:

In certain cases, the job centre may bear costs for language mediation. This is then called »Mehrbedarf« (additional need). A »Mehrbedarf« (additional need) is granted if you have an urgent need over a longer period of time. This can be the case, for example, with costs for language mediation for long-term psychotherapy. However, a »Mehrbedarf« (additional need) will not be granted for one-off costs for language mediation in health care services.

If you organise the language mediation yourself, you will usually bear the costs.

3. Language mediation in legal disputes

There are many different possible situations:

Costs for lawyers in cases for »Verwaltungsrecht« (administrative law)

The costs for lawyers may be covered by the authority if: You have submitted an application to an authority and the application has been rejected. You hire a lawyer with which you appeal the authority's decision (»Widerspruch«). If the appeal or a subsequent legal action in court is successful, the costs for the lawyer will be paid by the authority. If the objection or subsequent legal action in court is not successful, you must pay the lawyer's fees yourself. There are exceptions to this rule in the case of »Beratungshilfe« (advisory services) and »Prozesskostenhilfe« (legal aid).

Only the necessary costs are covered. This means that language mediation is not financed for every aspect of the process. Discuss the details with your lawyer.

In court

A court must always ensure that you can communicate. The court must therefore organise appropriate language mediation. In criminal proceedings, the court will bear the costs. In all other proceedings, the costs are usually covered by the party that loses the dispute. For example, in court proceedings, there may be **court costs**, **costs for your own lawyers** and **the other party's lawyers**.

There are exceptions to this rule with regard to court costs. In some cases there are **no court costs**. This is the case with **asylum proceedings in the »Verwaltungsgericht«** (administrative court) and in most cases in the **»Sozialgericht«** (social court). In this case you »only« have to pay the costs for your own lawyer if you lose in court.

You don't have to pay any costs if legal aid has been granted for the proceedings.

»Zivilrecht« (civil law) – language mediation is not funded

If you want to communicate with another person or a non-governmental organisation and need language mediation, you are usually responsible for the language mediation yourself, unless another arrangement has been made (e.g. in a contract or offer). It is best to ask before the appointment whether the other person or organization can help with the language mediation. This also applies to language mediation with a lawyer. You can ask for language mediation when you make an appointment.

»Strafrecht« (criminal law) – language mediation is funded

If a governmental body (e.g. the police) takes action against a person because of a criminal offence, the governmental body has to ensure communication. The governmental body must then also organise and pay for language mediation. This applies if you are questioned by the police, either as the accused or as a witness.

If language mediation is denied: insist that it be noted in the minutes that you want an interpreter and that this was refused. You should then speak to your lawyer or an advice centre.

If you have any questions or need help, please contact an advice centre or your lawyer.

Further information on communication with the authority can be found in our information sheet »Communicating with the German Authorities ('Behörde')« on our website at: <https://www.fluechtlingsrat-lsa.de/eigene-publikationen/>



Flüchtlingsrat
Sachsen-Anhalt e.V.

Flüchtlingsrat Sachsen-Anhalt e.V.
»Landesinfostelle Flucht und Asyl«

Schellingstr. 3-4
39104 Magdeburg
Tel.: 0391 50549613
Mail: info@fluechtlingsrat-lsa.de
www.fluechtlingsrat-lsa.de

Das Projekt „Landesinfostelle Flucht und Asyl“ wird aus Mitteln des Asyl-, Migrations- und Integrationsfonds kofinanziert und gefördert durch:



EUROPÄISCHE UNION



Europa fördert
Asyl-, Migrations-, Integrationsfonds



SACHSEN-ANHALT
Ministerium für
Arbeit, Soziales und
Integration
#moderndenken

PRO ASYL
DER EINZELFALL ZÄHLT.



UNO
Flüchtlingsrat
Deutschland
für den UNHCR