



Ministry of Justice of the Republic of Latvia

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Report on a tailored preliminary legal aid mechanism

“

Strengthening access to justice in Latvia through fostering mediation
and legal aid services”

February 2024

Peter VAN DEN BIGGELAAR

International expert on legal aid services, Netherlands

Bojana NETKOVA

LLM, attorney at law, expert in legal aid and access to justice,
North Macedonia

Alan PATERSON

International expert on legal aid, professor of law, United
Kingdom

John EAMES

Tribunal judge, expert in legal aid systems, United Kingdom

This report is developed in the framework of a cooperation project funded by the Directorate General REFORM of the European Commission and the Council of Europe and implemented by the Council of Europe. The views expressed herein can in no way be taken to reflect the official opinion of the European Union or the Council of Europe.

1 Table of contents

| | | |
|-----|---|----|
| 1 | Table of contents..... | 1 |
| 2 | EXECUTIVE SUMMARY OF RECOMMENDATIONS..... | 3 |
| 3 | CONTEXT | 7 |
| 4 | INTRODUCTION..... | 8 |
| 4.1 | Legal aid and access to justice | 8 |
| 4.2 | What is primary legal aid?..... | 9 |
| 5 | LEGAL AID IN LATVIA: an overview of the current situation | 11 |
| 5.1 | Regulation of legal aid | 11 |
| 5.2 | Institutional framework | 12 |
| 5.3 | Primary and secondary legal aid..... | 14 |
| 5.4 | Provision of state provided legal aid | 15 |
| 6 | TYPES OF LEGAL AID DELIVERY MECHANISMS: comparative overview..... | 16 |
| 6.1 | The Netherlands | 17 |
| 6.2 | Republic of Bulgaria..... | 24 |
| 6.3 | Republic of Slovenia | 27 |
| 7 | KEY MODALITIES in the October-December 2023 Primary Legal Aid pilot scheme 28 | |
| 7.1 | What happens in a primary legal aid consultation?..... | 28 |
| 7.2 | Scope: client eligibility..... | 32 |
| 7.3 | Scope: areas of law / problem types | 34 |
| 7.4 | Who are the providers?..... | 38 |
| 7.5 | Providers: clarifying and agreeing their structural roles and responsibilities 49 | |
| 7.6 | Providers: guaranteeing quality..... | 53 |
| 7.7 | Referrals from the primary legal aid advice points | 54 |
| 7.8 | Practicalities of delivery: venues, locations, opening times, drop-in / appointment, duration of consultations and more..... | 57 |
| 7.9 | Structure, management, governance..... | 63 |

| | | |
|------|---|----|
| 7.10 | Case-management and case recording | 68 |
| 7.11 | Data processing for strategic planning..... | 71 |
| 8 | Annex I | 74 |
| 9 | Annex II..... | 76 |
| 10 | Annex III..... | 80 |

2 EXECUTIVE SUMMARY OF RECOMMENDATIONS

These are given **bold** emphasis in the main text of the report.

Recommendations on the ‘primary’ role for advice points – section 8.1

- **Primary legal aid advisers need further in-service training and induction training**[[recommendation 1](#)]
- **The training will need to focus on the specific actions and functions typical in primary legal aid enquiries** [[recommendation 2](#)]
- **The Courts Administration legal aid team should instigate an office manual tool** [[recommendation 3](#)]

Recommendations on client eligibility – section 8.2

- **The pilot scheme’s present approach of ‘open doors’ to all enquirers should be further developed** [[recommendation 4](#)]
- **The first-line service should aim to become well-known to people of limited means throughout the country** [[recommendation 5](#)]

Recommendations on areas of law on areas of law which should be available – section 8.3

- **Primary legal aid should not be restrictive as to areas of law** [[recommendation 6](#)]
- **There is a need to grow a public perception that understands all types of potentially justiciable problems can be brought to the service** [[recommendation 7](#)]
- **The emphasis at first-tier level should be on the message “tell us about your problem”** [[recommendation 8](#)]
- **A widening of the areas of law available is desirable** [[recommendation 9](#)]
- **Clients should be encouraged to approach the primary legal aid service with their problems with state benefits, mental and physical health and disability rights, discrimination, immigration and asylum matters, tax, homelessness and general social welfare questions** [[recommendation 10](#)]
- **There is a need to improve training, information-giving skills and referral procedures in those specific areas of law** [[recommendation 11](#)]
- **A legal needs assessment should be carried out across Latvia as soon as possible, with the results used as a guideline for choosing legal areas** [[recommendation 12](#)].

Recommendations on the provider ‘ecosystem’ – section 8.4

- Latvia’s legal aid partnership should include lawyers who have shown interest in the further development of primary legal aid in the first pilot and other partner organisations [recommendation 13].
- A mixed model is desirable, the embryonic beginnings of a mixed model in the pilot scheme should be developed [recommendation 14]
- Guideline 16 of the UNODC *Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* should be followed [recommendation 15]
- The ‘mixed economy’ is an important aspiration for the Latvian primary legal aid system to keep in mind [recommendation 16]
- Long-term, there should be a funded initiative to stimulate, kickstart and nurture development of relevant NGOs, legal clinics and relevant branches of the legal profession [recommendation 17]
- An advisory board should be set up with the participation of stakeholder organisations [recommendation 18]
- A deep level commitment on the part of the commissioning authority (Courts Administration) needs to be fostered with regard to collaboration and partnership [recommendation 19]

Recommendations on having municipal social welfare centres in a legal aid partnership – section 8.4

- Structural change is needed in order for the social welfare centres’ participation to become viable: we list these in the report and note that Without such changes, municipal social welfare centres’ role in primary legal aid delivery is problematic [recommendation 20]
- It is essential that there be clear service-level agreements between the Court Administration and municipal social welfare centre providers [recommendation 21]

These changes will need to adopt the principles on page 53

Recommendations on partnership generally – section 8.4

- There must be clarity from the start [recommendation 22]
- Provider organisations need to know what they have signed up to [recommendation 23]
- Partner organisations need to be treated as equals and visibly valued by a central legal aid authority [recommendation 24]

- It is necessary to put work and effort into maintaining a legal aid partnership [recommendation 25]
- The efforts of providers must be acknowledged, appreciated, and supported in a practical way by a central co-ordinator [recommendation 26]

Recommendations on clarifying and agreeing providers' structural roles and responsibilities – section 8.5

- The primary legal aid system must establish proper service delivery agreements with its providers [recommendation 27]
- Agreements should include an agreement to comply with international guidelines [recommendation 28]
- Service-level agreements need to specify the number of hours to be delivered and many more details [recommendation 29]
- Transparency and clarity are very necessary about what is within scope and what is not [recommendation 30]
- There should be emphasis on partnership [recommendation 31]
- The Courts Administration should urgently undertake a review of its new role, and quickly identify the cultural and structural shifts that will be necessary [recommendation 32]

Recommendations on quality – section 8.6

- the new Primary Legal Aid programme should be underpinned by a robust form of quality assurance as a safeguard for the vulnerable individuals who are the beneficiaries of legal aid [recommendation 33]
- Quality assurance measures must be built into the design and implementation of the new Primary Legal Aid scheme from the outset [recommendation 34].

Recommendations on referrals – section 8.7

- Primary legal advisors should be trained in the skills and procedures of referral [recommendation 35]
- Referral principles ought to be the content of further training [recommendation 36]
- The information base on other providers should be improved [recommendation 37]
- A referrals methodology should be developed [recommendation 38]
- An agreed referrals protocol should be developed [recommendation 39]

Recommendations on venues, locations, opening times etc which should be available – section 8.8

- **Venues should aspire to a set of key attributes** [[recommendation 40](#)]
- **There needs to be clear delineation between the core function of a host organisation (like social welfare centres) and the primary legal aid advice point hosted within that organisation** [[recommendation 41](#)]
- **Innovations should be developed like a once-a-week pop-up presence in, for example, busy court buildings, sports centres, health clinics, shopping malls or official offices** [[recommendation 42](#)]
- **It is desirable for primary legal aid advice points to guarantee access via un-pre-booked drop-in opening hours** [[recommendation 43](#)]
- **There should be at least 2-3 hours every weekday when a drop-in (first come, first served) arrangement is available to first-time enquirers** [[recommendation 44](#)]
- **There should be at least one session a week outside of normal office hours** [[recommendation 45](#)]
- **There should be a common appointment system visible to the consultants and co-ordinators** [[recommendation 46](#)]

Structure, management, governance – section 8.9

- **The co-ordination roles described in section 2 of the Pilot Project Analytical Report should be adopted in any future mixed-model legal aid partnership** [[recommendation 47](#)]
- **Co-ordination across participating municipal social welfare centres is desirable** [[recommendation 48](#)]
- **The commissioning authority (CA) should have full understanding of the supervision and governance arrangements of legal clinics** [[recommendation 49](#)]
- **In NGOs, a legally qualified supervisor is needed to monitor and oversee the work of non-legally qualified paralegals** [[recommendation 50](#)]
- **There is a need for an institutional basis to give authority and accountability to the operations of the primary legal aid service** [[recommendation 51](#)]
- **An advisory board or steering group is needed to give further institutional grounding** [[recommendation 52](#)]
- **There is a need to institutionalise active and dedicated management in a future primary legal aid service** [[recommendation 53](#)]

- **A dedicated legal aid unit within Court Administration will be best placed to take over formal management of primary legal aid** [[recommendation 54](#)]
- **A primary legal aid coordinator needs to be appointed as a full-time post** [[recommendation 55](#)]

Recommendations on case management and case recording – section 8.10

- **It is essential to instigate a case-management system** [[recommendation 56](#)]
- **There should always be an overarching system for each provider to keep track of all current and past cases** [[recommendation 57](#)]
- **All providers should also maintain case-specific records or files for each case / client / matter** [[recommendation 58](#)]
- **Advisers’ resistance to keeping detailed records must be overcome with training and awareness-raising** [[recommendation 59](#)]

Recommendations on data collection and processing – section 8.11

- **Data-collection and its strategic use must start to become embedded in the culture of the overall legal aid system** [[recommendation 60](#)]
- **A small working party be tasked with working towards a standard for better data-collection and better use of data** [[recommendation 61](#)]

3 CONTEXT

This report is developed in the framework of a cooperation project funded by the Directorate General REFORM of the European Commission and the Council of Europe and implemented by the Council of Europe and more specifically the European Commission for the Efficiency of Justice (CEPEJ).

The project, which started in December 2021, is titled “Strengthening access to justice in Latvia through fostering mediation and legal aid services (Phase II)”. This present project builds upon the 2019-2021 cooperation project “Strengthening access to justice in Latvia through fostering mediation and legal aid services”, financed by the European Union and implemented by the CEPEJ at the Council of Europe in 2019-21.

In the context of this Project, two important areas are viewed as bearing a serious potential to ensure a more effective access to justice: 1) widen the scope of state ensured legal aid (including primary legal aid and mediation services); 2) improved availability of state ensured legal aid. The second component i.e. improved availability of state ensured legal aid focuses specifically on improving the Legal Aid scheme in Latvia. Among other activities, it also includes the producing a Report on primary legal

aid mechanism which will encompass proposals for setting up a new scheme for primary legal aid in Latvia.

Under the auspices of the current Project a mission of several legal aid workshops¹ in October 2022 in Latvia were conducted with relevant stakeholders² in order to exchange experiences of the stakeholders involved in the legal aid system and to identify the needs and willingness for implementation of a new system for primary legal aid i.e. legal aid mechanism, which encompasses quality mechanism, introducing new cadre of professionals i.e. paralegals, referrals and training. Building up on the results from the Mission workshops in October 2022 this report details some preferred aspects for setting up a new model for primary legal aid in Latvia.

This report is produced as a co-operative work conducted by Mr Peter van den Biggelaar LL.M, former CEO Dutch Legal Aid Board, expert in legal aid systems, Professor Alan Paterson, professor of law, Strathclyde University, Mr John Eames, expert in legal aid systems, legal aid barrister and judge of the First-tier Tribunal in the UK and Ms Bojana Netkova, attorney at law, expert in legal aid and access to justice.

This present revised version of our report has now had the benefit of all the documentation including the Pilot Project's own report³.

4 INTRODUCTION

4.1 Legal aid and access to justice

Access to justice is a basic right of every person and a basic principle of the rule of law in a society. In the absence of access to justice, people are unable to exercise their rights, challenge discrimination or hold decision-makers accountable.

It is important to underline that the notion of access to justice is not limited to judicial bodies, but also includes alternative dispute resolution mechanisms, such as quasi-judicial proceedings available before some equality bodies and national human rights institutions and ombudsmen. As clarified by the European Court of Human Rights

¹ Workshop on the development of a primary legal aid service in Latvia: Scope; Workshop on the development of a primary legal aid service in Latvia: Referrals concept; Workshop on the development of a new class of professionals to provide primary legal aid in Latvia (paralegals); Workshop on the development of a new class of professionals to provide primary legal aid in Latvia (paralegals); Workshop on the development of quality standards and quality assurance methods, including peer review for legal aid in Latvia and Workshop on the development of a training module for providers of primary legal aid in Latvia

² Representatives of the Ministry of Justice, the Legal Aid Administration, the Social centres of the Municipalities - Sigulda Region Municipality Social Service, Kuldīga Region Municipality Agency "Social Service", representatives from the Council of Sworn Advocates of Latvia, the representatives from the Local Governments Training Center (LGTC) and the representative from the legal clinic (University of Latvia), Council of Certified Mediators

³ Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

(ECtHR), these mechanisms are perfectly valid as long as their decisions can ultimately be monitored by a judicial body and comply with the general requirement of fairness.⁴

Access to justice is highlighted in the 2030 Agenda for Sustainable Development, whose goal 16.3 of Goal 16 refers to advancing the rule of law at national and international levels and ensuring equal access to justice for all.⁵ This is a key aspirational goal which, though hugely ambitious, needs to inform legal aid initiatives globally.

Legal aid is a key element for access to justice, but also an essential element in the fight for equality. Access to legal aid can be translated as access to justice for the poor, marginalised and vulnerable categories of people. Provided free or at very low cost to the beneficiary, it protects those who do not have the means to defend their rights in the criminal justice system and to represent their rights and interests in civil and administrative processes.

As emphasised in the United Nations (UN) Principles and Guidelines on Access to Legal Aid in Criminal Proceedings, legal aid is an element of the right to a fair trial in criminal justice processes, established by several human rights instruments that have so far received almost universal status of ratification.⁶

4.2 What is primary legal aid?

Primary legal aid is assistance that individuals⁷ can access without a referral and it includes **clarification of questions, information and advice** and **referrals to secondary line lawyers**. In appropriate cases it may include assistance with **letter writing or form-filling**.

It provides **help and support** for people in legal need and with justiciable problems at the earliest possible stage in order to use early intervention to put individuals on the right track, to help them find solutions themselves and/or with the help of others.

This initial contact also helps to **funnel** and **sift out** the type of cases that can be solved within the scope of the legal aid system and **refers matters outside the scope** to other providers as best as possible. It can also use mediation as a tool.

⁴ Committee on Equality and Prevention of Discrimination, Equality and Prohibition of Discrimination in Access to Justice, no. 13740 Report of March 31, 2015

⁵ SDGS (UN Sustainable Development Goals), See: <https://sdgs.un.org/goals/goal16>

⁶ 173 member states have ratified the International Covenant on Civil and Political Rights since 1966. See: <https://indicators.ohchr.org/>

⁷ We use various words to denote a person who uses or might use the service: individual, client, enquirer, service-user. Mostly these are interchangeable and have no legal significance. We avoid using the word 'citizen' because Latvian citizenship is not a prerequisite for using primary legal aid.

Within this provision individuals can also obtain **information about the chances of success**, the **lead time** and the **costs** of the subsequent procedure. On this basis they can weigh up their own interests and decide whether they wish to proceed with the case if needed.

If far-reaching legal help is desirable and if the enquirer so chooses, they may then decide to consult a lawyer in private practice who may act on their behalf both in law and otherwise.

So, the mission of primary legal aid or the first line service could be that it is intended to be a modern, public scheme where citizens can obtain **free or at very low cost and immediate advice** on legal matters. The first line service will **clarify the problem** and then **provide information and advice**, either immediately or in a further consultation. If necessary, it will **refer the client to relevant organisations** that can provide a more specialised service.

It goes without saying that the quality of this form of first-line service must be guaranteed and verifiable in a transparent manner and that it is also solution-oriented, effective and cost-effective. Strategically, government and other players can treat it as having another function, namely to identify common defects in legislation and regulations and in the functioning of organisations that administer statutory schemes, as well as recurrent problems, for example regarding housing corporations, social welfare institutions, health services or utility companies.

As well as the experts' own wide experience, we have turned to standard international standards to guide us as to what a primary legal aid service should offer.

The 2016 UNODC Global Study on Legal Aid⁸ defines it like this:

***Primary legal aid** is a form of legal aid that involves the provision of information, referral to territorial offices, mediation and public education. It is available regardless of the financial circumstances of the applicant, and is provided either immediately on request or within a maximum of several days of submission of the request.*⁹

The Council of Europe Committee of Ministers¹⁰ acknowledge the need for primary legal aid in the form of early intervention or, as they put it, preliminary legal aid to deal with problems at source as far as possible.

⁸ UNODC & UN Development Programme: Global Study on Legal Aid, 2016

⁹ The failure to include advice giving in this definition is problematic.

¹⁰ *Guidelines on The Efficiency and The Effectiveness of Legal Aid Schemes in the Areas of Civil and Administrative Law*, adopted by the Committee of Ministers of the Council of Europe on 31 March 2021: paragraphs 5 and 6

5 LEGAL AID IN LATVIA: an overview of the current situation

In Latvia the person's right to fair trial is guaranteed in the Constitution (Satversme). Article 92 of the Constitution envisages that everyone has the right to defend his or her rights and lawful interests in a fair court. Everyone shall be presumed innocent until his or her guilt has been established in accordance with law. Everyone, where his or her rights are violated without basis, has a right to commensurate compensation. Everyone has a right to the assistance of counsel. Article 91 of the Constitution envisages that all human beings in Latvia shall be equal before the law and the courts¹¹. Human rights shall be realised without discrimination of any kind.¹²

The right to free¹³ legal aid in Latvia was consolidated in 2005 when a conceptual decision was made to create the state-ensured legal aid system as a state-guaranteed and supervised service. Before that, since the restoration of independence in 1991, legal assistance in criminal proceedings existed. Likewise, fragmentary legal aid was also possible in civil cases and administrative cases, as the competence of the Council of Sworn Advocates of Latvia provided for the right to instruct lawyers to handle the cases of indigent persons. The first law on state stated "Its main goal is to promote the right of a natural person to a fair court protection by ensuring state-guaranteed financial support for the receipt of legal aid in civil and administrative disputes. To guarantee the successful provision of state ensured legal aid in civil and administrative cases, on 1 January 2006 a specific institution subordinated to the Ministry of Justice – Legal Aid Administration – was established."¹⁴.

5.1 Regulation of legal aid

Amendments to the Law on Legal Aid Provided by the State were enacted in a 19.06.2008 law¹⁵ and Amendments to the State Provided Legal Aid Law that came

¹¹ Though it is to be observed that the spend per capita on Latvian legal aid and the low financial eligibility threshold rather temper the interpretation to be given to this clause.

¹² OHCHR/Latvia/NHRI

¹³ Sometimes the term Free Legal Aid is used for all publicly funded legal aid services instead of Legal Aid. Referring to "Legal Aid" rather than "Free Legal Aid" will better reflect international and, in particular, European practice and increase recognition that legal aid includes all state funded legal help whether on matters of criminal, civil or administrative law and regardless of who provides it. Its use will also help remove the confusion which the word "free" may cause in the minds of users and providers of these services. Indeed, legal aid is not free; it has a cost that is supported by a public budget, hence from taxpayers' money.

¹⁴ <http://www.internationallegalaiddgroup.org/index.php/articles/13-new-developments-in-the-latvian-legal-aid-system>

¹⁵ Amendments to the Law on Legal Aid Provided by the State 19.06.2008 law / **LV, 100, 02.07.2008.**; Reporter, 15, 14.08.2008. / Enters into force on 16.07.2008; Amendments to the Law on Legal Aid Provided by the State 19.06.2008 law / **LV, 100, 02.07.2008.**; Reporter, 15, 14.08.2008. / Enters into force on 16.07.2008; Amendments to the Law on Legal Aid Provided by the State 12.06.2009 law / **LV, 97, 26.06.2009.**; Reporter, 14, 23.07.2009. / Enters into force on 01.07.2009; Amendments to the Law

into force in January 2019 stipulate that persons are entitled to free legal aid if they make a co-payment in certain types of cases indicated in the Civil Procedure Law and in Constitutional Court Proceedings, if the income of such persons does not exceed the minimum monthly salary specified in Latvia¹⁶. These amendments increased the availability of legal aid.¹⁷ With the latest amendments to the law in 2023, a substantial restructuring of the legal aid administration is carried out merging the LAA with the Court administration.¹⁸

5.2 Institutional framework

The Legal Aid Administration is a Latvian state institution which provides legal assistance to persons with a low income and manages state compensation funds for victims of crime. The Legal Aid Administration is a direct administrative institution under the authority of the Minister of Justice.

In accordance with the State Ensured Legal Aid Law and the Cabinet Regulation No. 869 of 15 November 2005 "Regulation of Legal Aid Administration", there are two activities of the Legal Aid Administration providing for implementation of the delegated functions and tasks: (i) to manage funds intended for state-provided legal assistance and (ii) to manage funds intended for state compensation to victims, as well as to provide victims of criminal offences with informational support.¹⁹

on Legal Aid Provided by the State 21.10.2010. law / **LV, 178, 10.11.2010** / Enters into force on 01.01.2011; Amendment to the Law on Legal Aid Provided by the State 09.06.2011. law / **LV, 93, 15.06.2011** / Enters into force on 18.06.2011; Amendments to the Law on Legal Aid Provided by the State 04.08.2011. law / **LV, 132, 24.08.2011** / Enters into force on 07.09.2011; Amendments to the Law on Legal Aid Provided by the State 03.05.2012. law / **LV, 75, 16.05.2012** / Enters into force on 30.05.2012; Amendments to the Law on Legal Aid Provided by the State 10.12.2015 law / **LV, 251, 23.12.2015** / Enters into force on 06.01.2016; Amendments to the Law on Legal Aid Provided by the State 02.02.2017 law / **LV, 36, 16.02.2017** / Enters into force on 01.03.2017; Amendments to the Law on Legal Aid Provided by the State 06.09.2018 law / **LV, 188, 21.09.2018** / Enters into force on 01.01.2019; Amendments to the Law on Legal Aid Provided by the State 26.10.2023 law / **LV, 221, 14.11.2023** / Enters into force on 01.01.2024

¹⁶ The categories of cases mentioned in the Civil Procedure Law are related to disputes whose amount exceeds 150,000 euros, commercial disputes, etc. Therefore, in fact, this mechanism does not work, because in such disputes very rarely persons whose income is up to the minimum monthly wage are involved.

¹⁷ EUROPEAN COMMISSION, Brussels, 30.9.2020 SWD(2020) 313 final, COMMISSION STAFF WORKING DOCUMENT, 2020 Rule of Law Report Country Chapter on the rule of law situation in Latvia, page 5, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0313&rid=1>

¹⁸ Amendments to the Law on Legal Aid Provided by the State, OP number: 2023/221.4, 26.01.2023, available at: <https://www.vestnesis.lv/op/2023/221.4>

¹⁹ Regulations of the Cabinet of Ministers No. 869 in Riga on November 15, 2005 (prot. No. 66 § 32), Amendments to the Regulations of the Cabinet of Ministers No. 869, Regulations of the Cabinet of Ministers No. 436 In Riga on July 28, 2015 (Prot. No. 36 § 38), available at: <https://likumi.lv/ta/id/121788-juridiskas-palidzibas-administracijas-nolikums?&search=on> ; <https://likumi.lv/ta/id/275668-grozijumi-ministru-kabineta-2005-gada-15-novembra-noteikumus-nr-869-juridiskas-palidzibas-administracijas-nolikums?&search=on>

To ensure implementation of functions, the Legal Aid Administration performs the following tasks: disburses funds intended for state-provided legal assistance; concludes legal aid contracts with persons who may be legal aid providers in accordance with the Law on Legal Aid Provided by the State, and assigns them to provide legal aid; organises and manages the operation of the State-provided legal aid register and the State Compensation Register; pays state compensations to the victims; ensures the operation of the telephone number 116006 "Aid service for victims of crime" by concluding a delegation agreement with the association "Skalbes". In the execution of the task, the association "Skalbes" is under the functional supervision of the administration; in the cases and according to the procedures specified in the regulatory enactments, ensures the recovery of state budget funds paid for state-provided legal assistance and state compensations; prepares and submits to the Ministry of Justice reports on the performance of administrative functions and the use of funds, as well as proposals for the operation of the administration; prepares and submits proposals in accordance with the procedures specified in the regulatory enactments for the implementation of the measures provided for in the regulatory enactments and policy planning documents and the necessary funding from the state budget for the performance of the institution's tasks; informs the public about the operation of the administration, collects and provides statistical data on the performance indicators of the performance of functions."²⁰

LAA is responsible for administering the legal aid system when it comes to the state funded legal aid. LAA is headed by the director who is appointed by the Minister of justice. The structural units of LAA are the departments, divisions and independent divisions. The director of LAA is responsible for the creation and operation of the institution's internal control and management decision review system and for providing the Minister of Justice with an overview of the performance of administration functions and the use of state budget funds at least once a year.

Transfer of legal aid to the Courts Administration

From 1 January 2024, the functions, administrative tasks, rights, obligations, claims, information systems, property, financial resources, record keeping and archives of the Legal Aid Administration will be taken over by the Courts Administration (CA). The functions and areas of activity of the two institutions are combined to make the state administration more compact and use the available resources more rationally.²¹ That inevitably raises questions about the potential for this move to undermine the independence of the legal aid service provider.²² It is a somewhat unusual arrangement; we have struggled to find comparators in other countries, much less any examples showing this would succeed. It would appear that legal aid officials are

²⁰ Section II, art.2, Regulations of the Cabinet of Ministers No. 869 in Riga on November 15, 2005 (prot. No. 66 § 32), Amendments to the Regulations of the Cabinet of Ministers No. 869, Regulations of the Cabinet of Ministers No. 436 In Riga on July 28, 2015 (Prot. No. 36 § 38)

²¹ Please see: <https://lvportals.lv/tiesas/353746-apvienos-juridiskas-palidzibas-administraciju-un-tiesu-administraciju-2023>

²² Though the UN Global Study does not cite any examples

sensibly keeping a cautious and watchful eye on the move. Reassurances have been received that “nothing will change” on the ground. It is true that judicial assignment of defence lawyers, for example, is commonplace worldwide. However, granting control of legal aid overall to a Courts Administration is different. There is no evidence that the court administration in Latvia has any experience of working with a network of partner organisations and providers. That is not how a court system works, because by definition a court system must maintain absolute integrity with regard to both judiciary and court administration, which will usually forbid a cooperative or collaborative approach alongside other partners. The view of the expert team is that this transfer of authority to the Courts Administration needs to be kept under close observation for any indication that the legal aid service’s independence is compromised, or, even worse, the risk of a perception that legal aid operates in the service of the judiciary.

5.3 Primary and secondary legal aid

According to the State ensured legal aid law²³, state ensured legal aid can be provided for the out-of-court and in-the-court settlement of matters of legal nature or for the protection of infringed or contested rights of a person or his or her interests protected in the cases.

Extrajudicial Legal Aid (out-of-court) is provided in a manner of legal consultations and the drawing up of procedural documents for the protection of the infringed or contested rights of a person or his or her interests protected by the law in a civil legal dispute and for preparation of an application or claim to the court or a settlement document if the person is involved in a dispute of a legal nature, in which legal proceedings are possible.²⁴

State ensured legal aid can be obtained in criminal cases²⁵ as compilation of procedural documents in criminal proceedings and defence or representation in criminal proceedings; and in civil cases in a form of legal consultation, preparation of documents and representation in courts. The law also foresees state ensured legal assistance in the Constitutional Court proceedings, in administrative matters in cases explicitly for asylum seekers in appeal procedures within the asylum granting process and within the framework of the appeal of the decision on the contested deportation order or the decision on the contested decision on forced deportation; and within the appeal of the orphan's court decision on the protection of the child's rights and legal interests.

²³ State-provided legal aid law of Latvia, available at: <https://likumi.lv/doc.php?id=104831>

²⁴ SPLAL, art.9 “Out-of-court legal assistance: The state provides legal advice and preparation of procedural documents: 1) for the protection of personal rights or interests protected by law that have been violated or disputed in a civil dispute; 3) if a person is involved in a dispute of a legal nature, in which legal proceedings are possible, in order to prepare an application or claim to the court or a settlement document.”

²⁵ There is also another type of legal aid in criminal proceedings - consultation, which is provided and paid for by the state

In cross-border disputes cases legal assistance is provided as legal consultation, compilation of procedural documents and representation in court.

The state provided legal aid is given by a legal aid provider which enters into a legal aid contract with the legal aid administration within the Courts Administration. But state-provided legal aid providers in criminal proceedings do not enter into a contract with LAA (now CA). In criminal proceedings, there is a different system of appointing a lawyer, but the payment for the assistance provided is made by the LAA (now CA).

The Legal Aid Providers that can enter into legal aid contract with the LLA according to the Law are sworn advocates, sworn notaries, sworn bailiffs, a natural person with the capacity to act and has completed an accredited study programme in law in a higher education institution (academic study programme in law or a second-level higher vocational study programme in law and a lawyer qualification), an association or foundation registered in the Register of Associations and Foundations that has ensured the provision of legal aid continuously for at least five years and a state-recognized higher education institution which has been implementing an accredited study programme for not less than five years, as a result of completing of which a lawyer qualification is awarded and in which a course or unit established for providing of legal aid is headed by a Doctor of Law.

All of the above-mentioned legal aid providers can provide out-of-court i.e. extrajudicial legal aid and in court legal aid.

The Law on state provided legal aid does not make clear distinction between primary legal aid and secondary legal aid. There are two separate types of legal aid, out of court i.e. extrajudicial legal aid that can undergo as primary legal aid and in court legal aid that represents secondary legal aid. However the extrajudicial legal aid entails legal consultations and the drawing up of procedural documents only in two (2) types of cases (please see art.9) which makes it deeply limited, not in line with the international documents²⁶ and with the essence of the primary legal aid.

5.4 Provision of state provided legal aid

In Latvia the Legal Aid Administration can provide state paid legal help (the assistance of a lawyer) if the person cannot afford it by themselves (if they are registered as a person with a low income or they have other reasons why they cannot pay for the help by themselves).

Legal aid can or may be received in:

²⁶ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems and The Guidelines on THE EFFICIENCY AND THE EFFECTIVENESS OF LEGAL AID SCHEMES IN THE AREAS OF CIVIL AND ADMINISTRATIVE LAW, adopted by the Committee of Ministers of the Council of Europe on 31 March 2021; RECOMMENDATION No. R (93)1 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON EFFECTIVE ACCESS TO THE LAW AND TO JUSTICE FOR THE VERY POOR

- a majority of civil cases²⁷
- administrative cases concerning a denial of status to asylum seekers and the forced expulsion of third country nationals
- administrative cases concerning decisions of Orphan's Courts relating to the rights of a child
- criminal cases – here, if a person who has the right to defence or another person in his or her interests has not entered into an agreement on defence, but the participation of a defence counsel is mandatory or the person wishes for the participation of a defence counsel, the person directing the proceedings shall notify the senior of the sworn advocates of the territory of the relevant court process of the necessity to ensure the participation of a defence counsel in criminal proceedings.

To receive state-paid legal aid, “submit an application accompanied with other relevant documents about the income, and the substance of the case of the applicant should be submitted to the Legal Aid Administration. State compensation to victims of crime may be obtained if the person is a victim in criminal proceedings and the offence has caused serious consequences to the health of the victim. To receive this compensation victims should submit an application to the Legal Aid Administration.”²⁸

“Legal assistance provided by the State in the Constitutional Court proceedings, civil matters and administrative matters of a specified type may be received by a person who:

- has acquired the status of a disadvantaged or poor person
- suddenly in a situation and in a material condition which prevents the safeguarding of their rights (due to natural misfortunes, force majeure or other circumstances independent of the person)
- are full dependents of the State or local government.”²⁹

6 TYPES OF LEGAL AID DELIVERY MECHANISMS: comparative overview

In the spirit of the recent changes in the State ensured legal aid law, in which the LAA is combined with the Courts Administration, a comparative overview of several

²⁷ However, this has to be offset against the relatively low per capita spend on legal aid in Latvia and its low financial eligibility limits.

²⁸ Please see: <https://www.cilvektiesibugids.lv/en/themes/organisations/state-institutions/legal-aid-administration>

²⁹ Please see: <https://latvija.lv/en/DzivesSituacijas/tiesibu-aizsardziba/valsts-juridiska-palidziba#show1>

systems that could possibly serve as an example in the establishment of the primary legal aid mechanism is given.

Why these countries and how could these countries relate to Latvia's needs?

Namely, the presented systems reflect both the previous system in Latvia and the current system in Latvia (after the implemented legal changes). Some of the comparative systems have special bodies responsible for administering the legal aid system, including primary legal aid, and in other cases, the management of the free legal aid system is under the jurisdiction of the court.

Given that we have already mentioned above that after extensive research, we were not able to find a combined system in which the body responsible for implementing the system of legal aid is merged with the courts, i.e. the judicial administration, the comparative overview is based on several countries that offer both systems.

The idea is to provide adequate insight into the various systems which, in correlation with the recommendations of this report, will enable the establishment of an adequate mechanism for primary legal aid/assistance.

6.1 The Netherlands

Dutch model

Under the European Convention on Human Rights and the Constitution of the Netherlands, each citizen of the Netherlands has the right to access courts, apply for legal advice and representation and, if means do not suffice, receive state-financed legal aid³⁰.

The Dutch Legal Aid system provides legal aid to people of limited means. Anyone in need of professional legal aid but unable to (fully) bear the costs, is entitled to call upon the provisions as set down in the Legal Aid Act (in force since 1994)³¹. The Legal Aid Act of 1994 replaced the prior statutory system that dealt with the supply of legal aid and dates back as far as 1957.

Residing under the competence of the Ministry of Justice (MoJ), an independent governing body called the Legal Aid Board ('Raad voor Rechtsbijstand', LAB) is entrusted with all matters concerning administration, supervision and expenditure as

³⁰ Constitution of the Netherlands Art. 17: 'No one may be prevented against his will from being heard by the courts to which he is entitled to apply under the law'. Art. 18 '(1) everyone may be legally represented in legal and administrative proceedings. (2) Terms concerning the supply of legal aid to persons of limited means shall be laid down by Act of Parliament.'

³¹ Constitution of the Netherlands Art. 17: 'No one may be prevented against his will from being heard by the courts to which he is entitled to apply under the law'. Art. 18 '(1) everyone may be legally represented in legal and administrative proceedings. (2) Terms concerning the supply of legal aid to persons of limited means shall be laid down by Act of Parliament.'

well as with the actual implementation of the Legal Aid System. This includes matching the supply of legal experts with the demand for legal aid, as well as the supervision and quality control of the actual services provided. Yearly, key figures are published that report on the previous year's situation.

The LAB also ensures adequate monitoring of the system by collecting and analysing facts, figures, movements and trends. The 'Kenniscentrum Stelsel Gesubsidieerde Rechtsbijstand' (knowledge centre legal aid system) as an independent body within the LAB is taking the lead in this regard and is also designing a further research agenda.

In addition, a Legal Needs Assessment takes place every five years, with research carried out by the WODC with an independent supervisory committee.

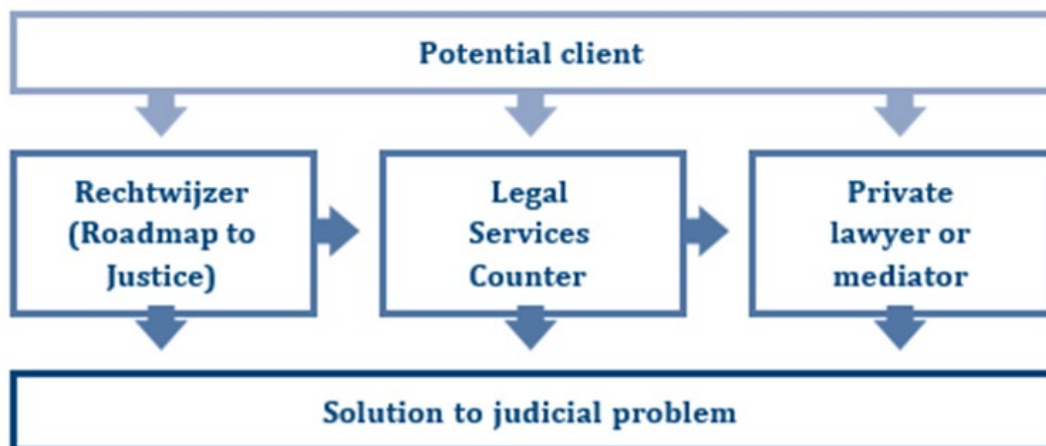
Financed by the MoJ the LAB accounts to this ministry for its budgetary allocations. The legal aid system operates according to an open-end provision.

Threefold model

The Dutch legal aid system is basically a threefold model. It encompasses three 'tiers' providing legal aid (see figure for a schematic representation).

The legal aid system, therefore, is a mixed model, consisting of a public preliminary provision, public first-tier and private second-tier help.

Schematic representation of the legal aid system



1. Online self-help, information and support is offered on the Rechtwijzer website (Rechtwijzer translates into Roadmap to Justice; see www.rechtwijzer.nl). Rechtwijzer is a preliminary provision and offers interactive 'decision trees' helping people to assess their situation. In addition Rechtwijzer provides easy-to-understand information and guidance on possible solutions for the most common legal problems.

Rechtwijzer combines publicly run guided pathways for common legal problems with online products and services from private service providers. In 2020 Rechtwijzer is supplemented with Rechtwijzer EHBO ('First aid for solutions'). This decision tree is aimed at early identification of multiple problems. The Legal Services Counters (see section 2 below) also have a website that can be used as a preliminary provision.

2. The Legal Services Counters (LSC) act as what is commonly known as the 'front office' (primary help). Legal matters are being clarified to clients and information and advice is given. Clients may be referred to a private lawyer or mediator, who act as the secondary tier of legal aid. Clients may also apply for help from a subsidised lawyer or mediator directly. If necessary, clients can also be referred to other professionals or support agencies, such as legal advisors or Consumer and Rent Tribunals.

3. Private lawyers and mediators provide legal aid in more complicated or time-consuming matters (secondary help) in the form of certificates. A lawyer (or mediator) submits an application to the LAB on behalf of his client. If legal aid is granted, a certificate is issued which allows the lawyer in question to deal with the case. Lawyers and mediators are paid by the LAB to provide their services to clients of limited means. Generally, they are paid a fixed fee according to the type of case (with fixed surcharges if applicable), although exceptions can be made for more time-consuming cases.

To some extent, trade unions and consumer organisations also provide legal aid. The number of legal aid insurance policies continued to rise for a long time and has stabilised around 42% of the Dutch households since 2010.

Ad 1

Rechtwijzer is a preliminary provision that helps people find solutions for their legal problems in an interactive manner. In this way, citizens are empowered to navigate easy-to-use processes to solve their problems. In their own time, at their own pace, against low or no cost, and with assistance when needed.

Rechtwijzer combines publicly run guided pathways for common legal problems with online products and services from private service providers meeting Rechtwijzer's rigorous quality standards.

Rechtwijzer is continuously being further developed and improved through feedback from users and service providers. The new application Rechtwijzer EHBO is a quick scan for multi-problems that maps out people's legal and psychosocial problems. It has been developed in close cooperation with a renowned national social services organisation Mind Korrelatie.

Services of Rechtwijzer are free of charge unless the support of an external expert is used.

Ad 2

The LSC act as front offices providing primary legal aid. They are fully financed by the Ministry of Justice on the basis of a closed budget.

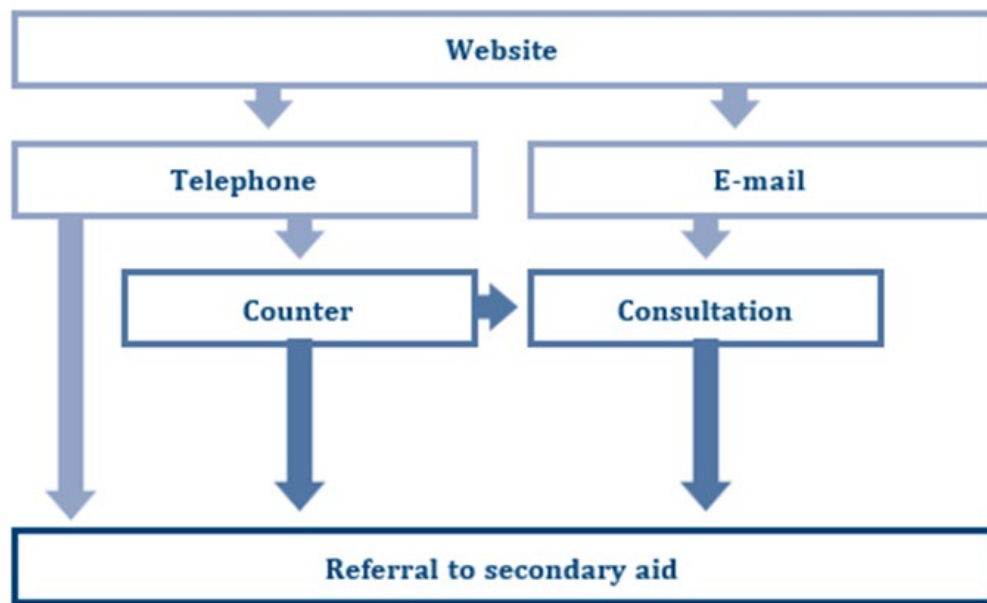
The organisation 'LSC' runs 29 offices and 26 service points around the country. These offices share a website and a call centre. Evenly set up geographically, every Dutch citizen is within easy reach of a Legal Services Counter, at a maximum of approximately one hour journey by public transport. The offices have a uniform and recognisable appearance.

The premises of the Counters have been designed to look as inviting to visitors as possible. In fact, they look more like a shop than an office. Inside is an open space with a waiting area and several desks. The call centre and rooms for private consultation are located at the back of the shop. Brochures and flyers containing information on legal matters are also available. In general, each LSC is staffed with legal advisers. Some Counters, particularly those in major cities, employ more staff. Since the services of the current Counters do not include extensive legal aid and representation in court, paralegals can also be employed. The Dutch bachelor education system developed a law course to train students for this kind of job some years ago.

The LSCs act as front offices providing primary legal aid. They offer information concerning rules and regulations as well as legal procedures. They give advice and refer clients to private lawyers or mediators if their problems turn out to be more complicated or time-consuming.

Services are free of charge. Although the LSC are basically open to any Dutch citizen, the aid is mainly intended for persons of limited means who qualify for legal aid. Clients can turn to the Counters with all kinds of judicial problems that concern civil, administrative, criminal as well as immigration law.

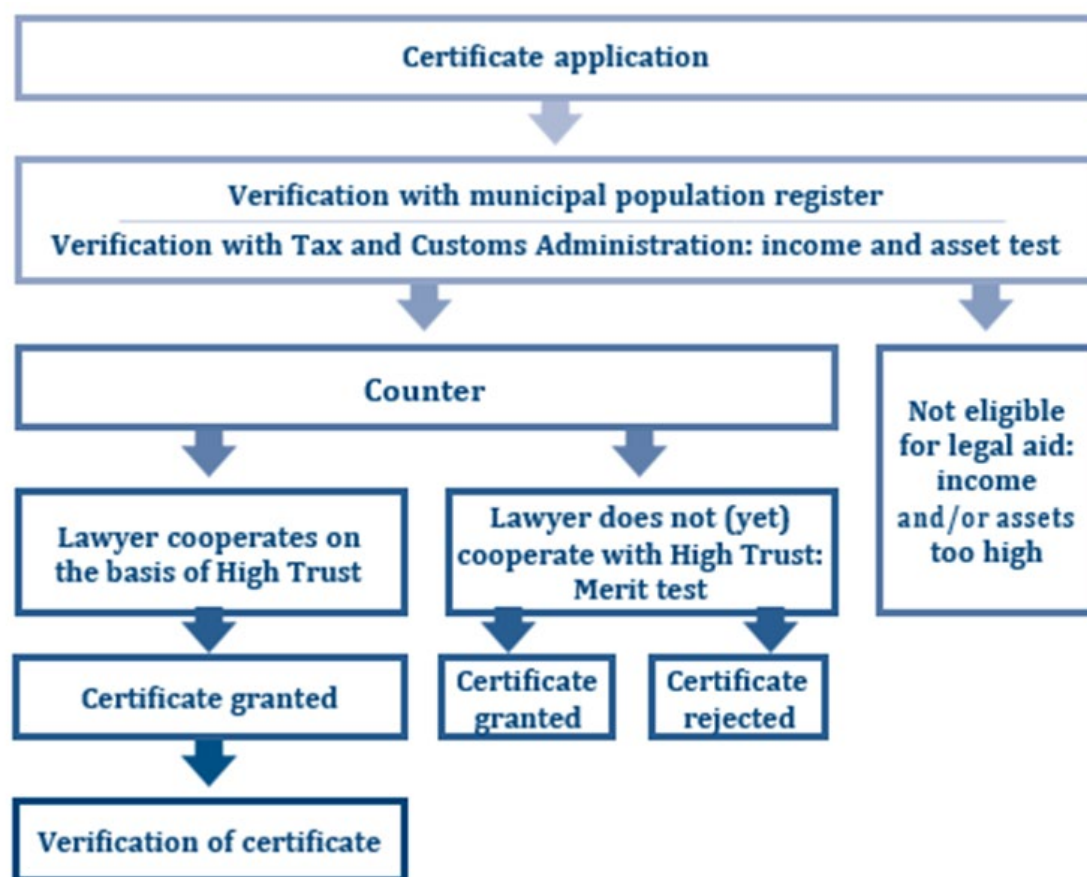
Figure: help provided by the Legal Services Counters



Ad 3

In order to obtain a certificate, a (LAB-registered) lawyer submits an application to the LAB on behalf of his client. Most applications are submitted electronically. The LAB assesses each application both in terms of the client's income and assets and the (financial) significance of the legal problem in question.

Figure showing the route followed by the application for a certificate.



Can the Dutch model provide starting points for Latvia?

The two pilot projects on primary legal aid in Latvia to date have examined the potential for a primary legal aid programme to be delivered firstly by practising lawyers and secondly by non-lawyer consultants or paralegals employed in a wide range of civil society organisations. The Global Study on Legal Aid³² reveals that internationally primary legal aid programmes come in many guises, often involving a hybrid mix of practising lawyers and paralegals but frequently being delivered by practising lawyers alone, or sometimes paralegal organisations alone. The Dutch model is one of the purest and most sophisticated examples of paralegal-only primary legal aid and as such is a very useful example for Latvia to learn from.

In the past, regular exchanges and study visits between Latvia and the Netherlands have taken place. The Dutch model is certainly not unknown. Interest in the Dutch system has actually been present for a long time, partly because of the effectiveness of the Dutch system and its reach in the first tier for all citizens. The mutual involvement

³² UNODC, 2016

in various projects and participation in ILAG (the International Legal Aid Group) also confirm this interest.

As in the Netherlands, the Ministry of Justice is also responsible for legal aid in Latvia, though now via the Courts Administration. The second tier, just like in the Netherlands, is fulfilled by private lawyers organised in the bar association and mediators. Without prejudice to the role of private lawyers, the first tier can easily be filled by a new group of first-tier providers. In this way, just like in the Netherlands, the Ministry of Justice can also remain at a distance and retain control of the system as such.

What is interesting about the Dutch model is that the Ministry of Justice is responsible for the legal aid system, but its implementation has been laid down by law since 1994 with the Dutch Legal Aid Board. The process started with five Legal Aid Boards, but after the merger in 2009 it was transferred to a Dutch Legal Aid Board.

The Dutch Legal Aid Board is an independent administrative and management body, the status of which is laid down in the Legal Aid Act (Legal Aid Act).

The Dutch Legal Aid Board is responsible for the organisation and supervision of legal aid.

This is also easy for management by the Ministry of Justice, partly because a good plan and control cycle has been established. The MoJ will send a policy and financial framework to the LAB in the middle of the current year. On this basis, the LAB draws up an annual plan and budget in the autumn. The LAB consults the organisations involved and then adopts the plan. Based on a discussion and consultation with the MoJ, the MoJ approves any proposals for adjustment.

This is the basis for the implementation for the new year. The LAB prepares its annual report, including financial reporting for the previous year, before April 1 of the new year and submits it to the MoJ for approval. The MoJ ultimately decides on approval and determines the finances.

Based on underlying data and numbers that have been well-registered for years and new, approved policy initiatives, it is very easy for the MoJ to predict what will happen in terms of policy and finance. This also means that there are virtually no surprises and that the Minister can easily provide explanations in Parliament and can also signal in a timely manner if special developments take place.

The interesting thing about the introduction of a first line as a separate organisation is that insight quickly arises into the (nature of) problems that citizens encounter, that solutions can be offered quickly and at an early stage, so that costs can be reduced elsewhere in society and that a good career path can also be created for lawyers.

With the help of this facility, citizens can also obtain information about the chances of success, the processing time and the costs of the follow-up procedure. On this basis,

they can weigh their own interests and, if necessary, decide whether they want to continue the case. It therefore also appeals to personal responsibility.

If far-reaching legal assistance is necessary, referral can be easily made and also more focused on the basis of specialisation.

The first-line provision in the Dutch system therefore has the advantage of early intervention options, it can quickly offer solutions and interventions, it can mainly deal with civil matters, it can reduce or save money in the legal domain (lawyers, courts, public prosecutor's office) and can easily focus his antennas on the problems that exist in society.

The Dutch system is not necessarily cheap, but primary care only uses approximately 10% of the total costs of legal assistance and, more importantly, it prevents many costs through timely intervention.

The first line is organised within a national organisation and this makes management easier and provides great benefits for the citizen because it can easily achieve a national image and recognisability. In this way, all forms of contact (visit, telephone, email, electronic self-help, etc.) can be easily deployed, maintained and bundled.

It goes without saying that in this way signals about bottlenecks in legislation and regulations, in implementation and in society also become visible and can lead to adjustment and improvement.

The online self-help and information tool can also be developed in Latvia from the first line facility.

The model of a central first line facility also lends itself easily to being introduced in phases through a national call centre, distribution of counters across the country and gradual expansion of legal areas, partly depending on education and training.

6.2 Republic of Bulgaria

Free legal aid in Bulgaria is organised by the Legal Aid Bureau (NLAB) and the Bar Councils³³. NLAB is a Bulgarian independent state body, publicly financed by the state

³³ Legal Aid Act of Republic of Bulgaria, Promulgated, State Gazette No. 79/4.10.2005, effective 1.01.2006, amended, SG No. 105/29.12.2005, effective 1.01.2006, SG No. 17/24.02.2006, effective 1.05.2006, SG No. 30/11.04.2006, effective 12.07.2006, amended and supplemented, SG No 42/5.06.2009, SG No. 32/27.04.2010, effective 28.05.2010, amended, SG No. 97/10.12.2010, effective 10.12.2010, supplemented, SG No. 99/17.12.2010, effective 1.01.2011, amended, SG No. 9/28.01.2011, supplemented, SG No. 82/21.10.2011, effective 1.01.2012, amended, SG No. 99/16.12.2011, effective 1.01.2012, supplemented, SG No. 82/26.10.2012, amended, SG No. 15/15.02.2013, effective 1.01.2014, amended and supplemented, SG No. 28/19.03.2013, No. 28/19.03.2013, amended, SG. No. 53/27.06.2014, supplemented, SG. No. 97/6.12.2016, amended and supplemented SG. No. 13/7.02.2017, art. 6 para.2

budget³⁴ which, together with the bar councils, provides legal assistance to persons with a low income, persons placed in specialised institutions, children at risk, persons detained by police, asylum seekers, foreigners who are to be expelled from the country and other vulnerable persons.

The National Legal Aid Bureau is assisted by an administration whose structure and organisation is determined by the Rules adopted by the Council of Ministers.³⁵ In 2015, the NLAB established seven legal aid centres, where indigent individuals can seek legal assistance on civil, criminal, and administrative matters from NLAB staff attorneys.³⁶ Legal assistance is also available on the NLAB's "National Telephone for Legal Aid"³⁷ where any questions regarding state-paid legal aid could be addressed or consultation for natural persons under facilitated conditions outside the general procedure for granting legal aid.

The Bar Council may open a Regional Counselling Centre which will represent a form for provision of consultation to natural persons under facilitated conditions outside the general procedure for granting legal aid.³⁸ The activity of the regional counselling centre is administered by the NLAB and by the relevant Bar Council.³⁹ Consultations at the Regional Counselling Centre shall be provided by lawyers registered with the NLAB and determined by a decision of the Bar Council.⁴⁰

NLAB consists of five members: a President, a Vice President, and three members.⁴¹ The President and the Vice President of the NLAB are appointed and removed from office by an order of the Prime Minister on the basis of a Council of Ministers decision and the remaining three members of the NLAB are elected by the Supreme Bar Council. The President and the Vice President perform the activity under an

³⁴ Ibid, art.6 para.3

³⁵ Ibid, art.7 para 1,2

³⁶ Latham&Watkins, LLP, Pro Bono Practices and Opportunities in Bulgaria, available at: <https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono%20Survey/pro-bono-in-bulgaria.pdf>

³⁷ Ibid, art.30a

³⁸ Ibid, art.30g and 30h

³⁹ Ibid, art.30i

⁴⁰ Ibid, art.30m

⁴¹ Legal Aid Act of Republic of Bulgaria, Promulgated, State Gazette No. 79/4.10.2005, effective 1.01.2006, amended, SG No. 105/29.12.2005, effective 1.01.2006, SG No. 17/24.02.2006, effective 1.05.2006, SG No. 30/11.04.2006, effective 12.07.2006, amended and supplemented, SG No 42/5.06.2009, SG No. 32/27.04.2010, effective 28.05.2010, amended, SG No. 97/10.12.2010, effective 10.12.2010, supplemented, SG No. 99/17.12.2010, effective 1.01.2011, amended, SG No. 9/28.01.2011, supplemented, SG No. 82/21.10.2011, effective 1.01.2012, amended, SG No. 99/16.12.2011, effective 1.01.2012, supplemented, SG No. 82/26.10.2012, amended, SG No. 15/15.02.2013, effective 1.01.2014, amended and supplemented, SG No. 28/19.03.2013, No. 28/19.03.2013, amended, SG. No. 53/27.06.2014, supplemented, SG. No. 97/6.12.2016, amended and supplemented SG. No. 13/7.02.2017, art.11

employment relationship and may not occupy another position under an employment or civil-service relationship.⁴²

The responsibilities of the NLAB include the monitoring and supervision of activities related to the provision of legal aid, the administering of payments for legal aid, the maintenance of the National Register of Legal Aid, organisation of the legal aid system and the promotion of the legal aid system.⁴³ The functions of the NLAB are to provide general and methodological guidance of the activity concerning the granting of legal aid, issue mandatory instructions on the application of the Legal aid Act and the statutory instruments of secondary legislation; prepare a draft of a legal aid budget; organise the keeping of the National Legal Aid Register; pay for the legal aid granted; exercise control over the granting of legal aid; exercise control over the granting of legal aid etc.⁴⁴

The Bar Councils organise the granting of legal aid within the respective geographical jurisdiction. To that end The Bar Councils prepare an opinion on the applications of the lawyers of the Bar Association for entry into the National Legal Aid Register; establish and maintain lists of the lawyers on duty, the stand-by defence counsel and the lawyers providing consultations in the regional counselling centres; designate a lawyer of the Bar Association, entered in the National Legal Aid Register, for implementation of the legal aid, making sure that the professional experience and qualifications of the said lawyer are suitable for the type, the factual and legal complexity of the case, other appointments according to the procedure established by this Act, and the caseload of the said lawyer; exercise current control as to the quality of the legal aid provided by the lawyers of the Bar Association and carry out checks and ascertainment and, where necessary, institute disciplinary proceedings and inform the NLAB; ensure training of the assigned counsel etc.⁴⁵

For the activity performed concerning the administration of legal aid the Bar Councils receive remuneration from the NLAB budget.

The management of the individual requests for legal aid differs from the type of requested legal aid. In cases where the requested legal aid is for consultations with view to reaching an agreement before the commencement of the legal proceedings or the filing of a case and preparation of the documents for bringing a case before court the legal aid is granted or not by the President of the NLAB within 14 days after submission of an order, judgement of court or certificate issued by the relevant competent authorities. In cases where representation in court by legal counsel is needed or representation upon arrest according to the Ministry of Interior Act and Customs Act then the decision to grant legal aid is made by the authority directing the procedural steps or by the relevant police or customs authority at the request of the

⁴² Ibid, art.15 para 1

⁴³ Ibid, art.8

⁴⁴ Ibid, art.8, para 1, 2, 4, 5, 6, 8

⁴⁵ Ibid, art.18 para 1,2,3,5

person concerned or by virtue of the law. The explained declaration for granting legal aid is further endorsed by the NLAB. “Finally, where an individual is not currently involved in legal proceedings, they may receive legal aid if they qualify for the receipt of state aid, if they have been placed in a social services institution, or if they have a foster child in custody. The determination of whether an individual not currently in civil proceedings qualifies for legal aid is vested with the NLAB.”⁴⁶

6.3 Republic of Slovenia

Free legal aid in the Republic of Slovenia i.e. specialist, administrative and technical tasks for the competent free legal aid authority is performed by the specialist service for free legal aid organised at every court of jurisdiction. The specialist service offer free advice and information to interested persons on the possibilities and conditions for obtaining free legal aid and on other issues related to granting and providing free legal aid, assist the applicant in drawing up an application for free legal aid and in handling the referral, and offer instructions on implementation of free legal aid to other providers of such services.⁴⁷

Applications for granting free legal aid are decided upon by the competent free legal aid authority operating at the court based in the region where the applicant has his or her permanent or temporary residence or where his or her head office is based.^{48,49}

The persons authorised to implement free legal aid are attorneys who are entered into a “Directory of Attorneys,” by law firms “founded on the basis of the act governing attorneyship,” and by notaries, and may also be offered by “persons who perform not-for-profit services of free legal aid with the approval of the minister responsible for justice.”⁵⁰

Under the Free Legal Aid Act, eligible individuals are entitled to the total or partial provision of funds necessary to cover the costs of legal assistance and are entitled to an exemption from paying the costs of judicial proceedings.⁵¹ Legal aid is available to be used in all courts of general and specialised jurisdiction in Slovenia, before the Constitutional Court of Slovenia, before all authorities, institutions or persons in

⁴⁶ Latham&Watkins, LLP, Pro Bono Practices and Opportunities in Bulgaria, available at: <https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono%20Survey/pro-bono-in-bulgaria.pdf>

⁴⁷ Free legal Aid Act of Republic of Slovenia, art.31

⁴⁸ Ibid, art.31 (a)

⁴⁹ The relevant district court in matters for which courts of general jurisdiction are competent; labour and social courts in matters involving individual and collective labour and social disputes; the relevant administrative court in matters involving administrative disputes; the court from the aforesaid courts whose jurisdiction covers constitutional appeals, motions for review of constitutionality and legality, disputes before international courts and out-of-court settlements of disputes.

⁵⁰ Free legal Aid Act of Republic of Slovenia, art. 29

⁵¹ Ibid, art. 1

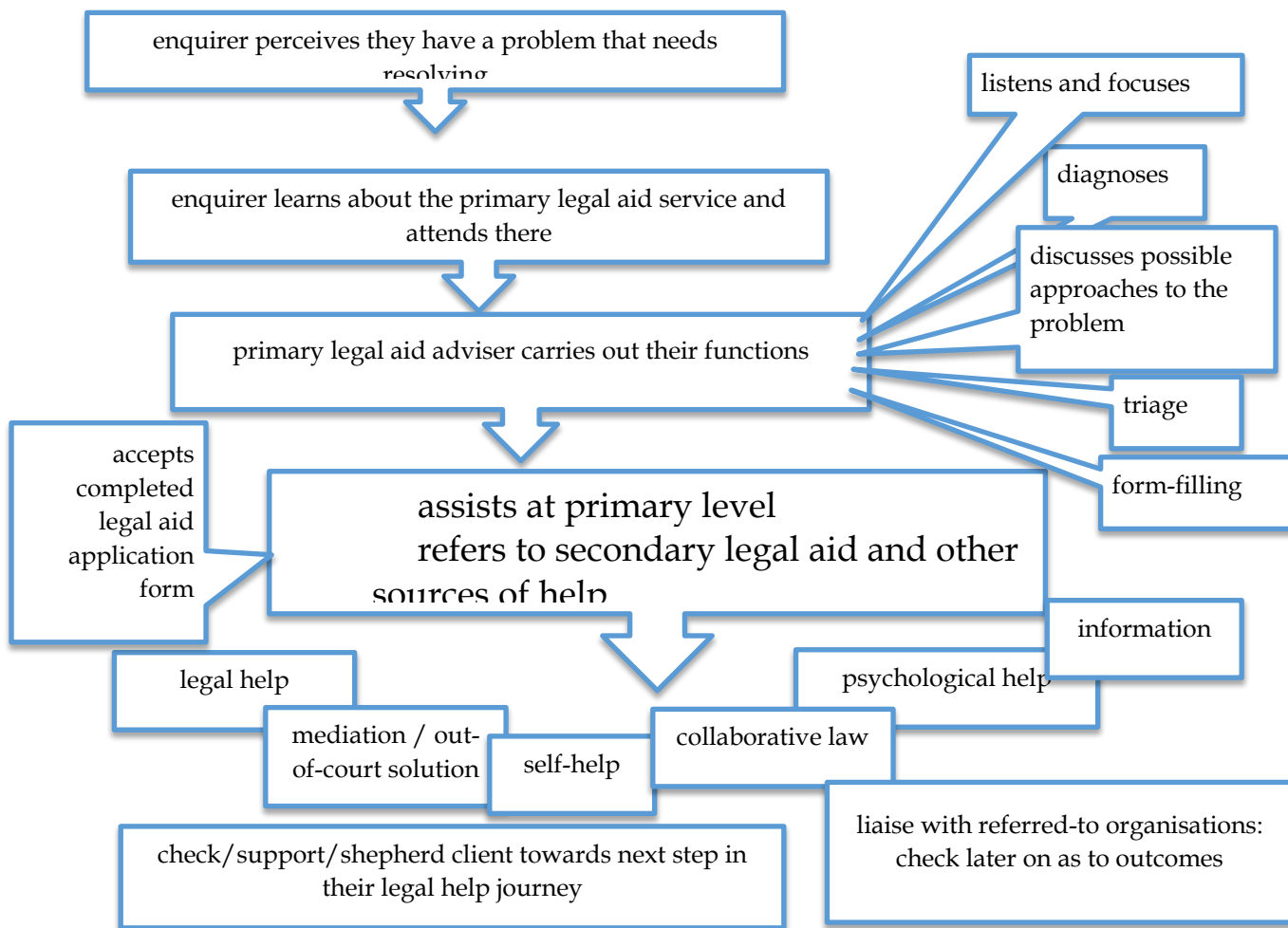
Slovenia authorised for out-of-court settlements and, in certain cases, for proceedings conducted before international courts or arbitration panels. Further, free legal aid may be granted for “legal advice, legal representation and other legal services” and for “all forms of judicial protection.”

7 KEY MODALITIES in the October-December 2023 Primary Legal Aid pilot scheme

This section covers some of the main areas in which those charged with governance of the organisation and deployment of legal aid need to make choices.

7.1 What happens in a primary legal aid consultation?

It is uncontroversial that an individual’s primary legal aid ‘journey’ will start by comprising the following typical stages. It is a soft template: not a rigid sequence but likely to be common in first-tier legal aid provision.



Did the October-December 2023 Pilot scheme comply with this model?

So far as we can tell from the weekly reports, consultations in the pilot scheme did by and large follow this template. Not all outcome options suggested in this chart were explored but the level of help was appropriate.

Referrals and other further actions

It is possible, judging by some of the comments in the weekly reports, that more help, support and "shepherding" could have been done around sending clients to another agency or service. That is the art and skill of referral, and we are not wholly persuaded that there was a uniform helping approach. For example, some weekly reports suggest that an enquirer was advised or 'recommended' to go to a notary – and, in some cases, there is no evidence that they were told how to do this, or how to choose one. In other cases, clients were told to apply to a court, again without evidence we have seen showing that they were talked through the detail of procedure, application and geographical whereabouts, etc etc. Those details are not icing on the cake: they are the fundamentals of client-focused referral. But the lack of evidence may simply be just that: concealing a true picture which is much more positive.

We have not seen evidence about whether, for example, letters clients brought in were read and explained to them, whether physical help with filling in a form was given, whether a range of options was suggested in cases of clients needing help outside the legal system, whether takeaway leaflets were handed to clients about particular topics, whether other information such as websites to look at or NGOs to contact, were given. but given instructions on further possible actions on: dismissal from work after parental leave. But clients were “successfully referred to further institutions such as consumer protection centre” and in more than one case an internal referral resulted in a legal aid client becoming a client of the relevant social centre⁵².

Those are all strategies which we would like to assume were deployed as appropriate, but it is impossible to tell from the case records we have.

Recommendations on the ‘primary’ role for advice points

We note from the *Analytical report on the pilot project on legal aid* ⁵³ the view that “most consultants answered that according to their understanding the Pilot project did cover [the appropriate] scope – one consultation showing the way”, and we share that optimism.

It is likely in our view, that some of **the skills, knowledge, function and role of primary legal advisers would benefit from some fine-tuning. This could be achieved by in-service training, or induction training** in the case of new advice points starting up in the future [[recommendation 1](#)].

The **training will need to focus on the specific actions and functions in a number of typical primary legal aid enquiries** [[recommendation 2](#)]. After teaching the essentials of those actions, it would benefit from the inclusion of role-plays for learners. Here we note the conclusions and examples in section 4.4 of the *Analytical report on the pilot project on legal aid* ⁵⁴: we endorse comments such as "training was great, but it should be more regular", "legal education is necessary for high-quality consultations", and the report's conclusion that, for example, 1 to 3 days (depends of the complexity of the topic, subject or area of the law that needs to be elaborated in a training) per month might be offered for ongoing in-service trainings.

A further way to finetune the compliance of the advice point with the key primary legal aid actions is to **instigate an office manual tool** [[recommendation 3](#)]. This would take the form of a physical office-manual which would offer task-based algorithms to assist with referral and further actions. It would be compliant with any future referrals protocol that is adopted, and would be a handy way for advisers to make sure they are on track and do not either fall too far short of all go too far beyond the primary legal aid advice role.

⁵² See section 8.4 below

⁵³ Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

⁵⁴ Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

What is assistance at primary level?

Key elements of defining the role of a primary legal aid adviser can be distilled into the following, having regard also to the flow diagram above.

The primary legal aid adviser will or may:

- welcome
- listen
- encourage
- take a history
- focus and clarify
- diagnose
- discuss
- advise
- assist
- refer
- follow up

Question clarification

In the case of question clarification, an inventory is made of information about facts, events and any correspondence relating to the situation presented.

On the basis of the information obtained from the question, the first-line adviser will assess whether it concerns a legal question or a non-legal question. If there is no legal question, the person will be referred directly to a non-legal service provider at another organisation.

Depending on this, further steps can then be taken:

Further elaboration of the legal question

Simple legal questions that may or may not be resolved with a recommendation are answered/advised at the counter or telephone or by email within a short period of time, perhaps up to 30 minutes.

It is advisable to gradually open up the possibility of extended consultation for a complex legal question that may not be resolved within 30 minutes and that can be advised within the consultation hour (of let's say 1 to 1.5 hours) at the physical advice point or by telephone when the question is taken and the customer is called back, emailed or written to.

For more complex legal requests for which no solution can be provided within the capabilities of the counter and the product manual, a direct referral to a legal assistance provider will therefore be more appropriate.

Categories of primary assistance

1. Provision of information

Providing legal information to clients on request in the physical, telephone or virtual counter to the questions asked by them in all categories of law.

2. Consulting

Giving advice to customers with regard to the information provided to them on legal questions in the event that there are several possibilities to arrive at a solution, or advice on how best to act in the form of undertaking an action by making an appointment, writing a letter, requesting a specific facility, etc.

3. Referral⁵⁵

Referring clients to a non-legal organisation based on agreed referral protocols

Referring clients to a possibly certified legal aid provider for more extensive legal aid, whether or not in the form of subsidised legal aid, as much as possible by booking an appointment if possible with a transfer of a short electronic file to the legal aid provider.

4. Additional extra consultation 1-1.5 hours

The consultation is intended for:

Further clarification of the question in the event that this cannot take place at the open desk or telephone within a short period of time, for example due to a multi-problem situation and/or the need to review documents.

7.2 Scope: client eligibility

Analysis of the October-December 2023 Pilot scheme as to client eligibility

We understand that all individuals making an enquiry at one of the 11 provider outlets are permitted to do so. No-one is turned away on any 'eligibility' grounds at the outset.

Clients disqualifying themselves by their behaviour It appears that a very small number of offensive phone calls, aggressive in-person enquiries and unpleasant emails were received and it is assumed that they would not get a call-back or would be refused access. But this must be subject to advisers' skills and capacity to identify

⁵⁵ See section 7.8 below

and deal empathetically with genuine clients who have challenging behavioural difficulties⁵⁶.

In general, we have no indication that anyone was turned away before even getting to state their potentially justiciable problem.

Social welfare centre clients One issue which had already concerned us, but to which we do not yet have a clear answer, is whether primary legal aid advice points in municipal social welfare centres would be disproportionately attractive to existing users of the social welfare services and conversely less used by those not already welfare service-users. The Analytical Report accepts that “the question is still open whether people who are not ‘usual clients’ of social services will look for primary legal aid in a social service”⁵⁷. There is evidence from the statistics in some but not all of the weekly reports on how clients first knew about the primary legal aid service; it is inconclusive so far. Anecdotally it seems that for many enquirers, the fact that they had to receive advice from social services did not play a significant role, even though they are not social services clients themselves. We would still like to be reassured that the social welfare centre-based legal aid outlets are not seen as mainly for existing social work clients.

International standards on eligibility for primary legal aid

The CoE Committee of Ministers Guidelines⁵⁸ promote a high level of accessibility at the early intervention (primary legal aid) phase of provision, urging that “Consideration should be given to, in particular, [...] making widely available, and easily accessible for everyone, information on law and the legal system and, in particular, on legal rights, obligations and remedies; early intervention with the help of legal aid systems (preliminary legal aid)”.

Recommendations on client eligibility

A legal aid system should be developed in a way that people of limited means can obtain information about and appropriate help with a justiciable problem free of charge from a first line service provider. This should be combined with the provision of basic advice as to possible solutions.

It is recommended that **the pilot’s present approach of ‘open doors’ to all enquirers is developed further [recommendation 4]**. In practice, the system has functioned reasonably well as to being open to all, by operating no qualifying threshold at all. That does not mean of course that all problems are solved or a referral undertaken, just that the client is allowed to come in and state their problem without

⁵⁶ 2nd, 3rd, 4th and 9th weekly reports of the October-December 2023 Legal Aid Pilot

⁵⁷ Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

⁵⁸ Guidelines on The Efficiency And The Effectiveness Of Legal Aid Schemes In The Areas Of Civil And Administrative Law, adopted by the Committee of Ministers of the Council of Europe on 31 March 2021

meeting any qualifying threshold conditions. The point is that as many citizens as possible use this service.

In this regard, we fully endorse recommendation 8 of the Analytical Report: “If needs of the people are put first, the scope of the topics for consultations should not be limited. But to ensure the wellbeing of the consultants if they are not lawyers, certain limits might be set.”⁵⁹

The implementation and execution costs are low in this phase; checking and testing via a means-test would require extra capacity that could actually be better used for assistance and advice itself and the effect of early intervention can be cost-saving for everyone, including the government - such as costs related to time, money and psychological burden.

In this way the **first-line service should aim to become well-known to people of limited means throughout the country [recommendation 5]** as the most easily accessible gateway to legal aid services. To achieve these aims at all times, its knowledge and experience can be combined and developed nationally.

7.3 Scope: areas of law / problem types

Original expectations

Early in the previous 2020 so-called ‘one-stop’ pilot it was hoped that the type of areas of law a gateway scheme would encompass might include the following:

- Housing and homelessness
- Welfare law
- Health and medical negligence
- Personal injury – someone at fault
- Child contact and access; child support maintenance
- Other parenting / pregnancy-related issues
- Social welfare and state benefits
- Crime: victim (state compensation, etc.)
- Crime: accused
- Consumer rights – faulty goods or services
- Debt, credit and money problems
- Inheritance rights⁶⁰
- Neighbour disputes
- Property rights (landlord-tenant problems)
- Property rights (home-owners)

⁵⁹ Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

⁶⁰ The initial results of the pilot show that there is certainly a need for information and advice in the field of inheritance law and related matters. It is certainly advisable to provide additional training in this area or, better still, to involve notaries in the primary legal aid scheme. Only the relatively large number of cases and the impact this can have for years justify this.

- Matrimonial and relationship issues
- Mental health
- Disability
- Health / ill-health
- Education rights
- Bereavement
- Employment rights (for employees: harassment, unfair dismissal, unfair discipline, discrimination)
- Immigration/asylum and nationality
- Unfair treatment by the police
- Tax (for employees)
- Enforcing court decisions

A similar expectation obtained for the present pilot. This was based on analysis and experience suggesting these are areas of law typically represented among disadvantaged individuals' justiciable problems. Additionally, these are often considered less lucrative areas of practice for traditional for-profit commercial legal services, hence market forces may lead to under-supply of such services in the legal private sector.

Did the October-December 2023 Pilot scheme address appropriate areas of law?

Areas of law clients actually asked about included the following recorded as discrete categories in the case record statistics:

- Rental law
- Inheritance law
- Pension issues
- Divorce issues
- Violence
- Maintenance and access rights
- Debts, insolvency proceedings
- Contract law
- Property law
- Employment law
- Criminal law
- Maintenance permit issues
- Incapacity issues
- Administrative issues
- Adoption issues
- Residence permit issues
- alleged violations by institutions or officials

In terms of initial threshold accessibility, it does not appear to us that any legal areas were *unavailable* or that enquiries about any particular legal areas would result in the person's exclusion from the service in the first place. Naturally, once again, that does not mean they got their problem solved or even got a successful referral, only that the

'open doors' policy of primary legal advice was properly respected in terms of casting the net wide as to justiciable areas of law.

Once particular types of common problems emerge in which the primary legal aid adviser cannot do very much, there is a **risk of falling into a pattern of immediate summary diagnosis and swift referral. We caution against this** as there is a risk of missing the client's collateral problems and also (in the case of inheritance enquiries for example) a risk of overly perfunctory referral ("you need to go and see a notary"⁶¹ – possibly with no further help given).

Areas of enquiry we are surprised not to see

Areas of law often typically faced by primary legal aid services, when the international picture is viewed, include things like state benefit disputes, mental and physical health and disability rights, discrimination, immigration and asylum matters, tax questions, homelessness and general social welfare questions.

It is interesting and noteworthy that those areas of enquiry do not seem to figure in the statistics from the weekly reports, and it is interesting to speculate on why that is. One possibility is that with the majority of primary legal aid venues being hosted by the municipal social welfare institutions themselves, individuals seeking independent advice about such a problem might be wary of advice delivered on those very same premises. Perhaps those clients are already getting social welfare help and are satisfied with decision made about their entitlement. Equally, it is possible that the service has not messaged clearly enough about the breadth of problems that could be raised at a primary legal advice point: in the case of immigration and asylum, for example, specific targeted communication might be needed. Similarly, with those who are homeless, itinerant or lead chaotic lifestyles.

Were other areas dealt with, which are not mentioned here?

Although the above areas of law in the bulleted list above are the ones which were generally categorised objectively in the case-record spreadsheets, other matters were certainly asked about by enquirers. These include⁶²:

- unspecified highly complex enquiries
- dealing with a violent spouse
- potential fraud in the offer of loans
- whether a working under-20-year-old could claim maintenance from their parents
- sanctions on real estate transactions
- need for surveyor in relation to real estate problems
- fair-trade use for social media

⁶¹ Eg weekly reports weeks 7 and 9. No criticism whatsoever of the actions suggested to the client is intended here. The issue about notaries has been picked up in chapter 5 of the Pilot Project's Analytical Report and we return to it below.

⁶² Weekly summary reports collated by the Pilot Project team, in particular weeks 4, 5 and 9.

- gift agreements

Recommendations on areas of law on areas of law which should be available

In the view of the expert team it is axiomatic that **primary legal aid should not be restrictive as to areas of law** that it is open for [recommendation 6]. Most individuals do not in any case categorise their presenting problems into areas of law: rather they see the *problem* and often it is a composite one when analysed legally. But for the individual it is important that they understand they can bring that problem to the primary legal aid advice point and that it is not in some way ineligible from the start. A wider issue of perception is that people will often not label their problem “legal”, and therefore will self-disqualify from a service offering legal help.

There is however an issue flagged in some of the weekly reports in which an individual sees the opportunity to get advice or a second opinion about a matter which they can otherwise pay for – like perhaps fair-trade use for social media. **Those clients can still be politely directed to the paid-for source of advice that is more appropriate.**

But in general, as a first-stop gateway, it is important that **public perception understands all types of potentially justiciable problems can be brought to the service** [recommendation 7]. Obviously, managing that perception in terms of whether such problems can actually be solved is another matter, but **the emphasis at first-tier level should very much be on the message “tell us about your problem”** [recommendation 8]. This is bound to create an exaggerated expectation for some enquirers; but it is better to err on the side of *over-inclusiveness* than any kind of *discouragement* as to the scope of the service. There is however a need to address the management of expectations and how to fine-tune the messaging to the public.

A widening of the areas of law available is desirable [recommendation 9]. Moreover a primary legal aid service does not need to remain passive. Latent demand for specific types of advice may be positively stimulated by promotions, information campaigns and changing the messaging to the public.

On one hand, **clients can be encouraged to bring to the primary legal aid service their problems with state benefits, mental and physical health and disability rights, discrimination, immigration and asylum matters, tax, homelessness and general social welfare questions** – things so far under-represented in the enquiry figures [recommendation 10]. This may be done through better and targeted communication with the public. It can be useful to step away from messaging that purely encourages clients to come with “legal” problems, and it can be better to communicate to the public with regard to common life problems without labelling them “legal” (even though they are).

On the other hand, the pilot has a role as an observatory to help identify which areas of law have already proved popular topics amongst clients, and to consider meeting that demand better. Those tendencies should give a useful steer as to what legal areas might merit an expansion of the service’s frontline capacities and skills. The most

noticeable example is the fairly high number of enquiries about inheritance matters. This might suggest a need to **improve training, information-giving skills and referral procedures in those specific areas of law** [[recommendation 11](#)].

The pilots show that possibly the greatest need for information relates to the inheritance and succession work of a notary. It should be examined whether and how this need can be met, for example by deploying notaries or notary clerks in a certain way, such as by telephone, email or on call.

Legal Needs Assessment

A legal needs assessment is an important tool in determining which legal areas and how the choice of legal areas should also be related to the needs of the population. Several countries use a legal needs assessment to obtain an overview of the needs of the population. This kind of assessment provides evidence of the extent to which the population is able to have effective access to justice and service providers.

This type of assessment is essential to establish the gap between the legal needs of the population and the level of provision which exists in practice. It helps inform legal aid policy making including identifying priority areas requiring action.

It can also provide insights as to how people deal with legal problems and the extent of unmet needs when important legal problems are not tackled. It can also help identify the problems of minorities or other hard to reach groups whose legal needs might be ignored or not satisfied. A key element is using surveys and other techniques to ask people about their legal problems.

It is recommended to **carry out a Legal Needs assessment in Latvia as soon as possible and using the results as a guideline for choosing legal areas** [[recommendation 12](#)]. Doing so periodically also provides a valuable means of checking whether legal aid policies are effectively working.

7.4 Who are the providers?

The provider 'ecosystem': some options

The front-line service (information, initial legal advice and assistance) is can be provided by one national organisation⁶³, or under the umbrella of an organisation which is at least an independent, publicly funded body.

But there are many alternatives. Internationally there is huge variation in the make up of partnerships of providers of state guaranteed free legal aid.

⁶³ like in the Netherlands the Legal Services Counters, Juridisch Loket

The UNODC Model Law on Legal Aid⁶⁴ contains a useful overview of approaches which lists models such as :

- Public lawyer systems
- Assigned counsel/panel lawyers
- Contract service systems, which could include lawyers, groups of lawyers, a bar association, or non-state affiliated organisations like NGOs, community-based, paralegals, university legal aid clinics, providing services, in particular jurisdictions, funded by the state.

The Model Law notes “most often countries establish systems that are a combination of public defender system, assigned counsel system, and contract service systems, resembling a mix of state, private and civil society providers, known as mixed model or hybrid systems. In addition, in many countries, civil society actors provide legal aid services directly to beneficiaries, funded independently from the state”.

The Model Law notes that “civil society providers form an increasing number of legal aid services worldwide”. It also acknowledges the existence of university-based clinical legal aid providers, “supplementing services to people who may not have easy access to legal aid otherwise”.

As to mixed model/hybrid systems, the Model Law notes that these “are increasingly popular as a means of maximising the strengths and minimising the weaknesses of the traditional models. Mixed models offer an optimum level of flexibility, allowing governments to choose how legal aid can best be delivered in different parts of the country. Legal aid service providers are typically coordinated by a legal aid agency. [...] Lack of coordination is often the challenge in hybrid systems and requires strong oversight and quality control mechanisms. In some instances the provision of legal aid services by civil society or other actors is seen as direct competition with the bar association, and may be perceived to be against its interest”.

It is now axiomatic that such **a mixed model is desirable**, despite the challenge of coordination, in that a strong varied partnership can offer collectively a more flexible and often more client focused service to the public than a single monolithic state or private-sector operation. Participation of NGOs keeps the primary legal aid service strongly attuned to its target client group, but the participation of other sectors equally⁶⁵ offers clients a level of choice and varied expertise which a single model may lack. A permanent staff can be well combined with a flexible part of contracted private lawyers⁶⁶.

⁶⁴ United Nations Model Law on Criminal Legal Aid Systems, Vienna 2017

⁶⁵ Paterson, *Legal Aid Governance Models and Independence* (2019 : Council of Europe Project “Continued support to the criminal justice reform in Ukraine”)

⁶⁶ One should not automatically assume that only private lawyers are suitable to work at the primary legal aid. Training, education, attitude etc also play an important role here.

Independence: The Council of Europe report *Legal Aid Governance Models and Independence*⁶⁷ argued from international experience that wherever possible legal aid service providers should operate independently of the government, the Ministry of Justice, the judiciary and the organisation of lawyers. In this way, the principle of the separation of policy making and policy execution can best be guaranteed. There does not appear to be any precedent for a legal aid system to be administered by the Courts Administration in other jurisdictions. We observe that similar principles of independence should apply however, perhaps accentuated by the difficulties that management by the Courts Administration could produce in this regard.

Further advantages of a mixed model with central coordination are that the work can best be carried out in close contact with the providers and using the local context. When the organisation and control are in one set of hands, it makes it easy to manage and control the system. It further provides the advantage that a spokesperson is available in the interest of the legal aid system itself and semi-independent of the political actors. What may also play a role is that competing interests within the agendas of the Ministry of Justice, the national bar association and the municipalities also play a role. The advantage of a separate and independent organisation includes that a new first-line organisation can focus better and more on legal aid activities in which the position of the individual is central. Such an organisation is accountable through a good plan and control cycle.

⁶⁷ Paterson, A: Council of Europe: *Legal Aid Governance Models and Independence*
<https://rm.coe.int/la-governance-models-and-independence-report-eng/16808f0665#:~:text=Accordingly%20this%20comparative%20report%20will,of%20the%20process%20of%20granting>

The provider arrangement in the October-December 2023 Pilot scheme

The present report acknowledges that, for the purposes of the present October-December 2023 pilot scheme, that model has largely been adopted in that 6 out of the original 11 primary legal aid advice points have been municipal social welfare centres, the other 5 being a legal clinic and NGO outlets.

| Municipality social welfare centres | Legal clinic | NGO sector |
|--|--|--|
| <ul style="list-style-type: none"> ● Madona District Social Centre ● Sigulda Municipality Social Centre ● Kuldīga Municipality Social Centre ● <i>Auce</i> social care and social rehabilitation centre ● Ogre Municipality Social Centre ● Mālpils District Social Centre | <ul style="list-style-type: none"> ● Legal Clinic of the Faculty of Law of the University of Latvia | <ul style="list-style-type: none"> ● Liepāja branch of MARTA Centre ● <i>Skalbes</i> crisis and counselling centre ● <i>SOS Villages</i> in Riga ● Centre of residents of neighbourhoods in Riga |

The question of participation of social services departments in primary legal aid

The UN Model Law does not appear to address or promote systems like those so far adopted in the present October-December 2023 pilot scheme in Latvia, in which existing services provided by, for example, social care, centres, or social security outlets of the state, or adapted so as to take on additionally a primary legal aid role. There is little precedent for this, it seems: the UN Global Study⁶⁸ does not cite any examples worldwide. However, there is useful reference to it in the 2012 Ukrainian International Study of Primary Legal Aid Systems⁶⁹:

⁶⁸ UNODC & UN Development Programme: Global Study on Legal Aid, 2016

⁶⁹ International study of Primary legal aid systems with focus on countries of central and eastern Europe and CIS - UNDP / Ukraine Ministry of Justice, Kiev 2012

Public servants providing primary legal aid: an advantage of the model is that it is relatively easy to organise — more so than “state legal aid bureaus” — as it relies on the already existing infrastructure. Furthermore, where this model relies on the existing human resources (i.e. no new personnel is hired to provide the service), it may appear cheaper than the other alternatives — but with a potentially severe negative impact on the accessibility of the service, as explained below.

*The downside of this model, however, is that such providers tend to be **less accessible and visible** to the potential beneficiaries as the others for various reasons. Another potential drawback of such providers is the **lack of capacity**: usually, the municipal or executive employees are vested with the task to provide legal advice **in addition to their other job duties**. Given the **lack of time** available to provide in-depth legal assistance, such providers are usually only able to give basic legal consultations, or refer applicants to other providers. Furthermore, **such providers may struggle to gain sufficient trust**, e.g. ensuring that the public would refer to them with all kinds of legal problems, including conflicts with the public institutions and state authorities.*

[our **bold** emphasis added]

It has consistently been the view of the project's international experts that there are disadvantages to a model which relies heavily on municipal social welfare centres taking on the fresh and additional responsibility of independent primary legal aid. Those enumerated by the Ukrainian study⁷⁰ include:

- poor accessibility and visibility to the public
- possible lack of capacity
- possible lack of time
- possible difficulties acquiring the trust of the public.

We would add that there is potential for a visible conflict of interest as between advisers' loyalties to their core client-group as social workers, and their new duties to transient one-off legal aid clients. That and the genuine difficulties suggested in the Ukrainian study, lead the present authors to continue to query whether the pilot scheme has been fettered by these issues.

One issue that has been consistently flagged up in the weekly reports is the tension experienced by some providers as between their core work (work which they were already doing before taking on primary legal aid), and the new responsibility of seeing primary legal aid clients. That issue appears to have been worse for social workers. This does not surprise us. Difficulties, as summarised in the Pilot Project Analytical Report, included⁷¹: unforeseen work interfering with the consultations; increase in the workload; unplanned and excessive phone calls; lack of time to serve more customers; client expectations of more than a referral; and one view that “social workers are busy

⁷⁰ *ibid*

⁷¹ Section 4.3, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

on a daily basis with case management, helping clients to solve their everyday problems. There is no capacity for such [a primary legal aid] duty”.

One provider organisation withdrew from participation after only about six weeks, because the provision of primary legal aid was disrupting their core work, and without completing their core tasks they would lose funding⁷². Their experience of adding primary legal aid to their work was that the significant time put into answering calls, gathering information, preparing for consultations, and receiving phone calls ‘at inconvenient times’ was too disruptive⁷³. The analytical report on the pilot project cited their reasons for withdrawal in full, and it makes for troubling reading⁷⁴. Other providers noted the volume of primary legal aid work was impacting on their mainstream work. Issues were flagged up about the difficulties of messaging to legal aid clients that there was a 30-minute limit on consultation times⁷⁵, and most significantly, that the primary legal aid service did not offer expert-level legal advice⁷⁶, and was not going to solve their whole problem in the majority of cases, and that some clients were unhappy with this. As was pointed out by the provider which withdrew from participation, there was no tangible benefit to the provider organisation – certainly not financially, but also not in terms of experience and learning. But other hostile or aggressive clients apparently dissatisfied with the service led to disenchantment on the part of some providers, most notably at the legal clinic⁷⁷.

Nonetheless, there were positives from providers’ point of view. Responses from consultants included that: clients could express their problem more freely to a social worker; there was a chance for social workers to gain experience, learn interviewing skills, learn new skills and increase their knowledge base; the service could better reach people in rural regions; and there could be seamless referral between primary legal aid and mainstream social services involvement⁷⁸.

Moreover, the tension is not confined to the municipal social centres – it cuts across all the sectors involved. Whilst we propose some solutions in terms of training and clarity of service agreements later in the present document, nonetheless there is **a systemic issue arising from a legal aid service contracting with partners who are lukewarm in their commitment because they are already under pressure**. This goes to the question of who should be a provider in a legal aid ecosystem. We

⁷² Weekly summary reports collated by the Pilot Project team

⁷³ *ibid*

⁷⁴ Section 4.2 of Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

⁷⁵ *ibid*

⁷⁶ *ibid*

⁷⁷ An aggressive rude client refusing to leave the office, and a client arriving with a 50cm thick bundle of papers asking the adviser to deal with it “made [the adviser] feel like giving up participation in the project!”

⁷⁸ Section 4.3 of Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

acknowledge that where a system is in relative infancy – so that there is a less well-developed NGO sector and less of a tradition of lawyers being legal aid partners – the options are fewer: it may be said there is not a huge choice in Latvia yet. Nevertheless, before the Latvian legal aid system commits to partnering with a given potential provider, questions need to be asked as to whether that provider truly has the capacity, status and commitment to carry out their responsibilities.

Recommendations on the right provider partnership for Latvia

A conclusion that fits with the results of the two separate pilots is that there are good opportunities to create a good mix of providers who participate in primary legal aid. **The partnership should consist of lawyers who have shown interest in the further development of primary legal aid in the first pilot and other partner organisations** – employees of the various organisations who have indicated that, under certain conditions, they would like to continue with this type of work [[recommendation 13](#)].

This combination could also be used to mutually exchange experience and expertise, to create a flexible layer that can absorb changes in the influx and to develop a career path for beginners in the primary line.

In terms of the pilot's spectrum of legal clinics, NGOs and statutory bodies participating, **we are encouraged that these are the embryonic beginnings of a mixed model** as not only endorsed by the UNODC *Model Law on Legal Aid*⁷⁹ - see above - but also acknowledged as an underlying reality by the CoE Committee of Ministers' Guidelines, and by the project experts' own experience internationally. **Those early stages of a mixed model should be built on and developed** [[recommendation 14](#)].

We also commend the UNODC *Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* [[recommendation 15](#)] where they suggest⁸⁰

Guideline 16. Partnerships with non-State legal aid service providers and universities

70. States should, where appropriate, engage in partnerships with non-State legal aid service providers, including non-governmental organizations and other service providers.

71. To this end, States should take measures, in consultation with civil society and justice agencies and professional associations:

⁷⁹ United Nations Model Law on Criminal Legal Aid Systems, Vienna 2017

⁸⁰ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Vienna 2013 https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf

(a) To **recognize in their legal systems the role to be played by non-State actors** in providing legal aid services to meet the needs of the population;

(b) To **set quality standards for legal aid services and support the development of standardized training programmes for non-State legal aid service providers**;

(c) To establish monitoring and evaluation mechanisms to ensure the quality of legal aid services, in particular those provided at no cost;

(d) To work with all legal aid service providers to increase outreach, **quality** and impact and facilitate access to legal aid in all parts of the country and in all communities, especially in rural and economically and socially disadvantaged areas and among minority groups;

(e) To **diversify legal aid service providers** by adopting a comprehensive approach, for example, by encouraging the establishment of centres to provide legal aid services that are staffed by **lawyers and paralegals** and by entering into agreements with **law societies and bar associations, university law clinics and non-governmental and other organizations** to provide legal aid services.

72. States should, where appropriate, also take measures:

(a) To **encourage and support the establishment of legal aid clinics in law departments within universities to promote clinical and public interest law programmes** among faculty members and the student body, including in the accredited curriculum of universities;

(b) To encourage and provide incentives to law students to participate, under proper supervision and in accordance with national law or practice, in a legal aid clinic or other legal aid community scheme, as part of their academic curriculum or professional development;

(c) To develop, where they do not already exist, student practice rules that allow students to practise in the courts under the supervision of qualified lawyers or faculty staff, provided that such rules are developed in consultation with and accepted by the competent courts or bodies that regulate the practice of law before the courts;

(d) To develop, in jurisdictions requiring law students to undertake legal internships, rules for them to be allowed to practise in the courts under the supervision of qualified lawyers.

[**bold emphasis added by the present authors**]

The experience with the design of the primary legal aid scheme in the Netherlands shows that a permanent staff of well-trained and educated legally trained paralegals has major advantages. A permanent staff can be easily combined with a flexible part of contracted private lawyers. However, training, education, attitude, etc. play an important role here.

It may also be the case that attention needs to be paid to the likely demand for primary legal aid, based on the experience of the pilot. Thus the pilot showed that there is a particular need for information and advice in the field of inheritance law and related matters. It would certainly be advisable to provide additional training in this area or, better still, to involve notaries in the primary legal aid scheme.

In short, **the ‘mixed economy’ is an important aspiration for the Latvian primary legal aid system to keep in mind [recommendation 16]**. Clearly it is governed and limited by the number of potential partners on the ground. Long-term, **there should be initiative to stimulate a growth in relevant NGOs, legal clinics and relevant branches of the legal profession [recommendation 17]**, who will eventually be able to take on a significant role in primary (as well as secondary) legal aid. **Kickstarting and nurturing the development of those potential providers is recommended as a long-term goal.**

In order to create more common support for legal aid and the form in which it can be provided, it is useful to involve more partners in the design of the legal aid system.

The point is to make it clear that investing in legal aid can help citizens move forward in solving problems. The sooner a solution to a problem is within reach, the fewer costs will end up elsewhere in society and the better the citizen can act himself and not fall into inactivity that is costly in terms of time and money. Good support naturally requires the support of service providers in the first and second lines, but certainly also other ministries and public organisations.

Involvement should be acquired and strengthened by involving stakeholders in the design and preparation of the annual plan, the reporting thereon and the research program. Active participation should be arranged, among other things, by **setting up an advisory board with the participation of such organisations** and participation in work and/or study groups [recommendation 18]. It requires **a deep level commitment on the part of the Courts Administration commissioning authority to collaboration and partnership**, which we strongly recommend [recommendation 19]. It remains to be seen whether the auspices of the Courts Administration in Latvia will have the motivation and desire to undertake this essential process, and we very strongly encourage those newly responsible for legal aid in the courts administration to engage with this necessity without delay.

Ways to improve the inclusion of municipal social welfare centres into a legal aid partnership

The participation of municipal social welfare centres in delivering primary legal aid is not yet set in stone. It is only one option. The Pilot Project Analytical Report is cautious, recommending “to keep the tasks of social workers at their existing level”⁸¹. That is appropriate. More reflection on this is needed, on the part of the Courts Administration and by the CoE expert team. It is noted that [recommendation 7](#) of Pilot Project Analytical Report states “In case primary legal aid is assigned to social workers, their everyday tasks must be rearranged accordingly so that they are not obliged to work above normal working hours”⁸² – which we fully agree with. Still, we do not consider

⁸¹ Section 7 recommendation 2, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

⁸² Section 7 recommendation 7, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

that the difficulties we already flagged up about this have been properly answered yet. The risks of poor accessibility and visibility to the wider public who are not already service-users, possible lack of capacity, possible difficulties acquiring the trust of the public and the potential for a conflict of interest, do need addressing and eliminating. The project experts have consistently felt that there are some dysfunctionalities inherent in the participation of already-existing social work offices taking on primary legal aid as a sideline. Whether the social work offices undertaking this role see themselves as part of primary legal aid (which they are) or as merely having some kind of assistance role only, either way they have responsibilities and need to be and feel integrated into the overall legal aid ecosystem. The dysfunctionalities are not necessarily irremediable however. We suggest that **it will take some structural change in order for the social welfare centres' participation to become viable [recommendation 20]**. This should include:

- **a dedicated centralised unit within the Ministry of Social Welfare tasked with specifically supporting those municipal social welfare offices** who had taken on a primary legal aid role. Such a unit would support, resource, coordinate and advise social workers who had adopted a primary legal aid responsibility within their existing job. In that way, the difficulties and tensions specific to that type of legal aid provider could be addressed and the tensions and issues arising from the dual role could be smoothed out and resourced.
- **Horizontal co-ordination across participating municipal social welfare centres is required.** They should speak to one another and liaise.
- such a Ministry of Social Welfare unit supporting primary legal aid-providing social welfare offices will need to **establish a very close bilateral relationship with the Courts Administration** in CA's overall governance of legal aid; a clear protocol for this bilateral relationship needs to be established right away.
- **commitment by the Ministry of Social Welfare and the Courts Administration to work in genuine bilateral partnership** to make primary legal aid in social welfare centres a core function open to all and with a distinct identity.
- **a dedicated training programme** for social workers with a primary legal aid brief. Soft skills should include topics like
 - ethics of advising in primary legal aid
 - referrals skills (refresher)
 - building your local knowledge of resources
 - the Latvian legal system
 - awareness-raising and attitude training about vulnerable groups including those in poverty
 - managing a mixed social work and legal aid workload, including time management and conflicts of interest

- a **commitment by municipal social welfare centres' local managements to properly integrate the new legal aid work** into the existing social welfare remit
- proper **guidelines and protocols about the separation between social work roles and legal aid advice roles**, and especially about the crossover when a client of one becomes a client of the other

As recommended below, **it is also essential that there be clear service-level agreements between the Courts Administration and providers [recommendation 21]** of this kind, whether or not there is a financial transaction.

Partnership lessons generally: recommendations

The UN Global Study⁸³ recommends

Partner with civil society organisations to deliver legal aid services

*[...] State institutions should explore ways to partner with civil society in delivering legal aid services. For example, some States have developed legal aid schemes through which civil society can also deliver legal aid services. **Partnerships between the State, private sector and civil society are key to delivering** on the goals and targets of the Agenda 2030 for Sustainable Development, including SDG target 16.3 on promoting the rule of law at the national and international levels, and ensure equal access to justice for all.*

[our **bold** emphasis added]

Lessons to be learnt from the dissatisfactions expressed by providers about the workload and its impact include, in our view, that

- **There must be clarity from the start**, on both sides of the relationship, as to what the work entails [recommendation 22].
- **Provider organisations need to know what they have signed up to**, and to promote a clear and enthusiastic message amongst their workers. Where there is dissent or disheartenment the provider organisation needs to work hard on sympathetically remedying this [recommendation 23].
- **Partner organisations need to be treated as equals and visibly valued** by the central Legal Aid Authority: it is too easy for them to experience their participation as taking on a burden which ought be borne by central government services [recommendation 24].
- **It is necessary for the commissioning authority (Courts Administration) to put work and effort into maintaining a legal aid partnership** [recommendation 25].
- That **the efforts of providers must be acknowledged, appreciated, and supported in a practical way by a central co-ordinator** [recommendation 26]. This has worked successfully, thanks to the huge efforts made by the national

⁸³ UNODC & UN Development Programme: Global Study on Legal Aid, 2016

coordinator and her colleagues in the present project; nonetheless, the resource that needs to be injected into organising and supporting a legal aid partnership should not be underestimated, and would normally require a small full-time team of 1-3 persons. These could be Courts Administration legal aid staff seconded to that dedicated role or it could be a unit specially recruited. This is not merely about supervising training for providers – though that is one part of it; it is hands-on full-time support for partner providers, with the role of improving quality, addressing practical problems, developing services, improving coverage, stimulating peer-to-peer collaboration between partner providers, and more. This could be achieved through online contact, but critically also via regular face-to-face supportive visits. We elaborate in some detail on how this can be done, below at chapter 7.9 *Structure, management, governance*.

All these suggestions above collectively then feed into the next section where we consider how the partnership should be made explicit and whether it should be enforceable.

7.5 Providers: clarifying and agreeing their structural roles and responsibilities

Assessment of the October-December 2023 Pilot scheme as to providers' fulfilment (or not) of their undertaking

There were no formal agreements, much less binding contracts, between the Pilot scheme coordination and the 11 providers⁸⁴. The scheme was not legally and formally in a position to enter into agreements in this way.

We observe that “No competition was organized and there were no selection criteria apart from that the people should already be working for a social service, legal clinic or NGO on an everyday basis”. That is entirely consonant with the terms of the short-term pilot, and we make no criticism of that basis for a partnership, given the short-term and experimental nature of the pilot.

But it raises questions that in a future, more mature operation need to be addressed. The relatively informal arrangement has led to some issues:

- the ability of providers to withdraw without notice – and one provider doing so after 6 weeks in a mood of dissatisfaction – would be unacceptable in a more developed primary legal aid service. Naturally it creates uncertainty for the public. It leaves issues of dissatisfaction on the part of the provider advisers which are then unresolved. In cases where the provider has made assurances to a client of a future action the provider will undertake, it leaves the client vulnerable to missed deadlines, confusion and feeling aggrieved. Worse, if the provider has retained any original documents belonging to clients there is the

⁸⁴ Section 4.2, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

issue of returning them. Proper closure of cases opened is a critical part of the life-cycle of a case.

- providers will have agreed to provide timely data feedback but in some cases failed to. Case records they were supposed to individually fill out were not always done, or not done each and every week. A concern is that they would have to be filling them out from memory if they didn't do it immediately, or have written them by hand and just haven't digitised them yet. Either way, there is risk of data and case record information being incomplete.
- advisers in difficulty were able to call up help from the coordinator and this is an excellent support arrangement; but we are not sure how far this level of response was assured to the providers during all opening hours, as some appear to have been in difficulty yet without timely support.
- there may have been uncertainty about what support the scheme co-ordination was offering.
- there may have been uncertainty about how far the providers' existing immediate management was supporting and resourcing the new role they were taking on. We cannot tell if there was reluctance or partial reluctance at any level in the 11 provider organisations' hierarchies.

As the Pilot Project Analytical Report reports⁸⁵, “*Some problems occurred with the discipline regarding consulting schedules and case registers since no legal obligations were established. But this may also be due to the workload of the consultants since they were not freed from their daily tasks*”. There are a number of instances in the weekly reports of the pilot project showing a level of dissatisfaction on the part of providers and their workers, as to the amount of time, effort and inconvenience they were put to by the addition of primary legal aid to their core tasks. There was “*exhaustion and significantly higher stress level [for] some of the consultants since their everyday tasks were disturbed by the calls of the project*”⁸⁶.

We note above how some advisers despaired at the workload combined with some challenging clients making hard demands. That is in one way understandable; and there is certainly an issue around adviser-inexperience and training needs – dealing with vulnerable and challenging clients *is* a fundamental in legal aid provision, and it *is* very difficult sometimes. However in a mature scheme that level of unanticipated inability to cope should (and can) be avoided. If the same provider model is adopted in future – that of existing municipal social services centres taking on the additional role of primary legal aid – then such agreement and clarity is absolutely crucial. But that is true no matter what mix of providers is used.

⁸⁵ Section 4.2, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

⁸⁶ *ibid*

Recommendations on ensuring fulfilment of provider agreements

It is essential that a system of free legal aid which is working in partnership with provider bodies – be they social services offices, law firms, NGOs, university legal clinics, or whatever – **must establish proper service delivery agreements [recommendation 27]** with its providers. It is at the core of a functional partnership. It is needed so that the central commissioning legal aid body can make sure that the service it seeks to deliver to the public is actually delivered. It is also needed so that the expectations of providers align with what is agreed and expected. It does not presuppose a financial transaction or funding support – only what the provider will guarantee to do and what the legal aid scheme will guarantee to do for its part.

Agreements should include an agreement to comply with international guidelines [recommendation 28]. In this way you also create a common starting point on the basis of which people can hold each other accountable for the way in which help can and will be provided.

Service-level agreements will need to specify the number of hours [recommendation 29] individual staff members are going to allocate to their new primary legal aid role, so that a total number of person-hours for each venue of the primary legal aid service can be predicted and agreed. This would then give an indication of the likely expectation as to the number of clients that can be seen. When such a system reaches some kind of steady state (rather than the naturally unpredictable and mercurial vagaries that are sure to arise in a two-month project), this would permit the central commissioning legal aid body to properly deploy resources and fine-tune satisfying the demand.

Transparency and clarity is very necessary about what is within scope, and what is not [recommendation 30] – as to hours, opening times, behind-the-scenes work, and type of enquiry and follow-up referral. Otherwise, it is possible to see, as the project has already experienced, adviser dissatisfaction leading in one extreme case to the provider organisation simply dropping out with impunity and no possibility, as far as we can understand it, for them to be held to their agreement to participate.

Service-level agreements should include agreement on

- total staff person-hours per month to be offered (may be broken down into client-contact hours and back-office hours)
- nature and mode of advice delivery
- conformity with an agreed referrals protocol
- need to submit to an agreed quality standard with an assessment regime
- minimum initial and in-service training requirements for individual legal aid advisers
- regulation and accreditation of individual legal aid advisers
- agreed procedure for terminating participation by a provider

- amount and type of support the provider gets from a central coordination
- how the primary legal aid service is visibly distinguished and promoted if it is hosted within an existing organisation with other public-facing roles
- what happens in the case of non-compliance by either side
- the remuneration of the primary legal aid provider (ie NGO, legal clinic as an entity, not an individual. The entity will regulate the internal payment of the individuals)

That may sound legalistic and rather formal, but that need not be the overall tone of the agreement – the relationship between the Courts Administration and the providers is still primarily a partnership. Underlying such an arrangement is always the premise that the service exists to serve clients and a focus on their needs is paramount.

It is instructive to note the rigorous approach commended by UNODC in its 2013 Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems⁸⁷ - concepts which may usefully be built into a service agreement.

Guideline 15. Regulation and oversight of legal aid providers

69. In adherence to principle 12, and subject to existing national legislation ensuring transparency and accountability, States, in cooperation with professional associations, should:

- (a) Ensure that criteria are set for the accreditation of legal aid providers;
- (b) Ensure that legal aid providers are subject to applicable professional codes of conduct, with appropriate sanctions for infractions;
- (c) Establish rules to ensure that legal aid providers are not allowed to request any payment from the beneficiaries of legal aid, except when authorized to do so;
- (d) Ensure that disciplinary complaints against legal aid providers are reviewed by impartial bodies;
- (e) Establish appropriate oversight mechanisms for legal aid providers, in particular with a view to preventing corruption.

However, **there should also be emphasis on partnership [recommendation 31]**, and a balance is to be struck between formal binding contractual relationship and a mutually supportive and collaborative approach.

Cultural change in the Courts Administration

The changeover to legal aid being governed by the Latvian Courts Administration was effective from 1 January 2024. The present authors have not had any opportunity to fact-find about, and understand, the Latvian Courts Administration in respect of its new

⁸⁷ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, Vienna 2013 https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf

role administering legal aid. We have not had the chance to meet with those senior in the CA hierarchy to understand their views on their new responsibility for legal aid. We have not had the benefit of reading the policy rationale for the move. But without knowing more, it should be said that we are somewhat apprehensive at the prospect of a Courts Administration quickly developing a culture of partnership with a broad cross-sectoral ‘family’ of legal aid providers. That is a wider systemic issue for the new relationship between Courts Administration and the legal aid ecosystem. Cultural change is likely to be needed. Such change will need to encompass the requirement to create collaborative partnerships underpinned by the service level agreements described above. It is likely that the Courts Administration does not have experience of that kind of relationship with non-governmental providers. It is outside the scope of the present report to make full recommendations on this issue, but we hope that present recommendations for both a partnership of equals and robustness in service level agreements will find a sympathetic ear in the hierarchy of the Courts Administration. Adopting new values in this respect is likely to be critical for the success of primary legal aid. It is recommended that **the Courts Administration should urgently undertake a review of its new role, if it has not done so already, and quickly identify the cultural and structural shifts that will be necessary [recommendation 32].**

7.6 Providers: guaranteeing quality

Quality: background and principles

A separate paper on Quality Assessment, both within the pilot and as regards post-pilot recommendations, is issued to accompany the present report.

International standards that we have relied on are of one voice on the absolute need for some kind of quality assessment and quality assurance, and that this needs to be built into the legal aid programme from the start, including the detailed record keeping that is required. It follows that the quality of service provided must be guaranteed.

This includes ensuring that service providers are well trained and well equipped for this special type of work. The quality of service must be able to be measured transparently and objectively. There are different methods to measure quality, but without a doubt peer review is the most transparent and objective when it comes to casefile reviewing. These matters are being reported on separately.

However, as indicated above, it is crucial for participating providers to understand the need for quality assurance and maintenance of quality standards. The overall message should be that this emphasis on quality is in order to deliver a high-quality service to the client and it's not merely a bureaucratic imposition done for its own sake.

Investing in quality costs money; not doing so will cost a fortune. In the end quality is most important and it is essential that the primary legal aid service is organised in such a way that it operates penny-wise and pound-foolishly.

All service providers, whether contracted private lawyers, paralegals, social workers or others, must be responsible for the quality of their services and must subject themselves to an external objected quality analysis.

Recommendations on quality

It is recommended that **the new Primary Legal Aid programme is underpinned by a robust form of quality assurance as a safeguard for the vulnerable individuals who are the beneficiaries of legal aid [recommendation 33]**, consisting of peer review of case records, institutional audit of advisers' organisations and occasional client satisfaction surveys.

We further recommend that **quality assurance measures are built into the design and implementation of the new Primary Legal Aid scheme from the outset [recommendation 34]**.

7.7 Referrals from the primary legal aid advice points

Assessment of referrals performance in the pilot

We do not have the benefit of any statistics about referral destinations of clients of the pilot project. We do know from the pilot project analytical report ⁸⁸ that 24% of clients felt the need to consult further on their particular issue, and 64% considered they needed a deeper level of help exceeding the one they were getting at the consultation. We assume they were appropriately referred. 27% considered their question partially answered by the pilot project consultation and 14% felt the question had not been answered; again, we assume those 41% of clients were appropriately referred. An overall reading of the weekly reports discloses some commendable examples of referral, and we must assume that this reflects the overall situation⁸⁹. Examples from the 11 providers include

- recommendation to go to court on a child-support maintenance issue
- recommendation to contact a notary
- referral to the legal clinic and a case successfully taken on there
- successful referral to further institutions such as consumer protection
- internal referral to the social centre in which the advice was taking place
- advice to contact the orphans court
- recommendation to client to report a possible loan fraud to the police

⁸⁸ Section 6, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

⁸⁹ We touch on this above at section 7.7

- other referrals or recommendations to contact a notary – in one case provided stated a particular notary recommended and their phone number given
- clients recommended to contact a surveyor

Beyond those anecdotal points, it is hard to construct a useful assessment of the nature and quality of referrals, so we decline to judge the performance of advisers in the pilot. It may range from simply saying to a person “Go to a notary” up to a much more guided form of ‘hand-holding’ in which the referrer checks out possible referral destinations tailored to the person’s need, discusses the referral with the person, checks and explains what capacity that organisation has, when they are open and where they are etc, explains carefully to the person how to approach the organisation, possibly checking again with the organisation after an agreed time whether they have received the person. It's a spectrum.

No doubt in the pilot the advisers were suggesting correct onward referral organisations, and had in mind the correct procedures. What is much harder to observe is the quality of the referral.

Recommendations on referrals

Ultimately, the only way there can be any assurance that this is being done well is to **make sure that primary legal advisors are trained in the skills and procedures of referral [recommendation 35]**. The experts refer back here to the content of the October 2022 workshops, And in our present recommendations, here we revisit the **referral principles which we consider really ought to be the content of further training [recommendation 36]**:

Principles of referral

With a referrals protocol that works well, the client should get referred

- appropriately
- sympathetically and sensitively
- efficiently
- quickly and
- once only (for each problem they have).

What makes referral effective?

All the following are ingredients. Some need the right structural elements; some require skills; some need good inter-agency dialogue

- trust between stakeholder organisations
- clarity

- management and co-ordination
- understanding on level of competency of receiving organisation
- personal skills of patience and sensitivity on the part of the referrer
- collaboration and sharing of information with correct protection of data
- personal skills of welcoming and courtesy on the part of the adviser accepting an inward referral
- capacity to accept referrals.

Although we have commented forcefully elsewhere that the idea of a primary legal aid tear is not just a "referrals machine", nonetheless, getting referrals right is some part of the lifeblood of primary legal aid.

We commend full appreciation of the mechanics involved.

Step by step what to do to refer

- identify the problem you can't assist with
- check client's view
- check out possible sources of help
- keep client on-side (in agreement that they need to see someone else)
- agree one or more avenues of referral with client
- agree clearly with client what personal information you can tell the destination-organisation about them
- contact the receiving stakeholder (destination-organisation)
- carry out the destination-organisation's instructions (things like: phone us, take some basic details, e-mail us, ask client to drop in, let's make an appointment now, pass the client to us on the phone right now, photograph some docs for us etc etc)
- check out any accessibility problems that may arise on arrival at the destination-organisation, along with any disability- or mental health-related travel issues the client may have getting there
- record in your own system
- follow up what happens – check that the client was able to be helped
- agree explicitly about any on-going collaboration between you the referrer and the destination-organisation on that person's case

Recommendation also includes

- **further work on improving the information base on other providers to aid referrals [recommendation 37]**
- **developing referrals methodology [recommendation 38]** and
- **further consideration of creating a referrals protocol [recommendation 39]** as was recommended in October 2022.

7.8 Practicalities of delivery: venues, locations, opening times, drop-in / appointment, duration of consultations and more

Assessment of the October-December 2023 Pilot scheme as to venues, locations, opening times etc

Delivery of the service in the pilot has been via 11 advice points run by 10 partners.

- Residents' Centre of neighbourhoods in Riga
- Legal Clinic of the Faculty of Law of the University of Latvia
- Madona District Social Centre
- Liepaja branch of MARTA Centre
- Sigulda Municipality Social Centre
- Kuldīga Municipality Social Centre
- *Auce* social care and social rehabilitation centre
- Ogre Municipality Social Centre
- Mālpils District Social Centre
- *Skalbes* crisis and counselling centre
- *SOS Children's Villages* in Riga⁹⁰

We do not have detailed data on the exact modalities of functioning that these venues operated in the pilot. We do know from the Pilot Project Analytical Report⁹¹ that the consultations “were mostly provided on an appointment basis although drop-in sessions were also available if the consultant was there and ready to consult”. As far as the 11 venues are concerned, we are not currently in a position to list exact opening times. A policy of limiting consultations to 30 minutes has been in force, But we don't know how effective this was.

Thus it was possible for prospective clients to pre-book appointments, either by phoning, e-mailing or messaging on Facebook. Actual consultations were done by e-mail and phone as well.

⁹⁰ This provider dropped out in week 6

⁹¹ Section 4.2, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

One reason for our vagueness and uncertainty about actual opening times etc, is that the whole paradigm of a walk-in venue with opening times like a shop is misplaced in the context of the pilot project.

It is hard to tell from a distance without visiting, but in general, some of the primary legal aid venues appear to show a very high quality of environment. This has to be one of the benefits of the advice points being hosted in municipal social centres, although of course being in those locations does not always guarantee high-quality physical environment.

At the time the photos below were taken, posters and signage had not yet arrived, so it is reasonable to assume that much better visibility through posters and signage would have obtained within a short time of the opening of the pilot.

It is hard to comment in detail on other aspects of physical venues (accessibility, street location and visibility, privacy, seating, welcome, signage) which would normally need assessing in an organisational quality audit.



How the advice venues looked



◀ Consultation room in a social centre aiming at disability and family-focused social work outside of Riga in a relatively well-off town called Sigulda



◀ The other consultation room in a different location in Sigulda. The social worker providing legal aid here had no office, and felt they could handle the rigours of finding a room. In the first location, this was a normal meeting room, in the second, she is using the changing rooms of the cultural centre next door's theatre.



◀ Reception at the municipal centre in Riga (for all sorts of needs, not merely legal aid). The person sitting there, which is also the waiting room, would direct people to the social worker's office



◀ Outside the municipal centre in Riga



◀ The social worker's temporary office in the heart of southern Riga on the far side of the river



◀ Consultation room of SOS Children's Villages, who have now withdrawn. This was already a consultation room made fit for children in stressful situations; users have to sit on small chairs, but this is not a great problem

Recommendations on venues, locations, opening times etc which should be available

The immediate venue for the primary legal aid advice points needs to be identified with care. **Venues should aspire to a set of key attributes [recommendation 40]:** they should be

- physically accessible
- unthreatening⁹²
- able to offer a waiting area not in the same room as the consultation space
- able to offer seating to all who need it - both while waiting and during the consultation
- able to afford privacy to clients while having their consultation
- equipped to a better-than-minimum standard with IT and stationery etc
- clearly identifiable from the street as *'open to all'* and have a visible presence on the street (or in whatever indoor context they are placed in)

Primary legal aid advice points may in the experts' view occupy a host organisation's premises provided it is a host with positive public perceptions (eg public library, polyclinic, a helping NGO⁹³). This raises issues as to whether the municipality social work centres and social care and social rehabilitation centres hosting 6 of the pilot's outlets meet that standard. It is likely that they do, but as commented on elsewhere in this report, **there needs to be good delineation between the core function of the host organisation and the hosted function of the primary legal aid advice point located within that organisation [recommendation 41].**

Additionally, we continue to recommend that something like **a once-a-week pop-up presence in, for example, busy court buildings, sports centres, shopping malls or official offices** highly frequented by the public [recommendation 42], would enhance the reach of the service, again provided the advice pop-up is clearly distinguished in its function from the host building/organisation.

As to hours of opening and whether drop-in or pre-booked sessions are offered, we note that both were on offer. **It is desirable for the primary legal aid advice point**

⁹² This would include attributes such as the avoidance of: heavy security (guards, CCTV) around the venue entrance; an overly posh or corporate style of venue such as some law firms may deliberately cultivate; strict, oppressive or intimidating signage; a place associated with risk of official or unofficial intimidation; and the encouragement of: open doors, welcoming signage, a place associated with helpfulness...

⁹³ So probably not a police station, tax office or smart law firm – and we know such venues were not used in the pilot

to guarantee access via un-pre-booked drop-in contact [recommendation 43]. However, demand may make that promise difficult.

Opening hours are dependent on the available adviser person-hours. Ideally **there should be at least 2-3 hours every weekday when a drop-in (first come, first served) arrangement is available to first-time enquirers [recommendation 44].**

Preferably too **there should be at least one session a week outside of normal office hours** (eg 17h00 to 19h30 on a weekday and/or 2 hours on a Saturday morning) **[recommendation 45].**

Un-pre-booked drop-in face-to-face sessions is a desirable model, with back-up arrangements for an appointments system ready to put in place as soon as demand grows.

Insofar as advice sessions can be pre-booked by phone, we would agree with the recommendation of the Pilot Project Analytical Report⁹⁴ that **there should be a common appointment system visible to the consultants and co-ordinators [recommendation 46]** to be able to assess the workload of each of the consultants and rearrange the consultations if necessary.

There may need to be staff to deal with those trying to call in person or by phone whilst an adviser is busy seeing a client

In determining number and length of time-slots allocated for consultations, regard should be had to the fact that even in primary legal aid where less follow-up is done, each contact hour with a client generates

- post-consultation follow-up work and
- administrative work not necessarily focused on an individual case

Non-contact person-hours in an advice agency would typically need to be between 50% and 100% of client-contact hours, depending on the depth and complexity of the advice actually undertaken by the service. Less than 50% may be viable for a wholly non-complex caseload.

The desirable time limit for a free diagnostic consultation should be 30 or 40 minutes, but this can never be an absolute.

⁹⁴ Recommendation 5, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

7.9 Structure, management, governance

Assessment of the October-December 2023 Pilot scheme as to coordination and governance

Supervision of advisers

As far as supervision is concerned, the present pilot has enjoyed the services of a team of consultants from law-firm CersJurkāns. The team provided for all the necessary logistical, informative, communications and substantial as well as emotional support to the consultants before, during and after the pilot project under a national coordinator contracted by CoE. The full scope of the support provided by the team is listed in detail at section 2 of the Pilot Project Analytical Report⁹⁵. It is comprehensive and provides an excellent model for the kind of support and supervision required in a networked, legal aid partnership. It is recommended that **the roles described in section 2 of the Pilot Project Analytical Report should be adopted in any mixed model, legal aid partnership [recommendation 47]**. The team's oversight has proven essential. There was telephone support available on all days the project was open, so that advisers in all provider organisations could call for guidance and assistance at any time in opening hours.

Municipal social welfare centres We do not have evidence that there was internal supervision and management of the primary legal aid function within each municipal social welfare centre that participated, or whether it was simply delegated to the scheme's national co-ordinating team. It would be useful to know more about this. We would also wish to ask the question whether there was any coordination across the six municipal, social welfare centres participating, so as to align their practices and give some kind of umbrella of support for that type of provider across the social welfare office network. Such **co-ordination across the municipal social welfare centres would be desirable [recommendation 48]** if they participate in future.

Legal clinics We do not have specific information about supervision and governance of primary legal aid advisers in the university legal clinic in Riga. It is likely we can assume that as an official legal clinic, it is subject to built-in supervision arrangements by academic staff but we don't have specific information on this. If that is the case, we also do not have information on whether those academic supervisors have been trained in, or have knowledge of, the specific primary legal aid environment and its values in which their student advisors will be deployed. If further partnership with legal clinics is envisaged (and we encourage this), **it is desirable for the commissioning Courts Administration to have full understanding of the supervision and governance arrangements of the legal clinics [recommendation 49]**.

NGOs As regards the four NGOs which participated as providers, we do not have information on what kind of in-house supervision and governance of the legal aid function was put in place, if any. It is possible that those NGOs, as with other sectors,

⁹⁵ Section 2, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

simply continue to function as before, except taking on a greater role by virtue of their legal aid work, but without any legal aid-specific new supervision arrangements.

In all international examples, and as per all the standards we have cited in the present report, it is axiomatic that rigorous supervision arrangements are necessary where paralegals (or any other professionals not legally qualified) are involved in any stage in giving legal advice or legal help. Lines of support and supervision do need to be delineated, although they do not need to be overbearing. A typical light-touch arrangement includes the system that has obtained in the present pilot scheme: **a legally qualified supervisor able to monitor and oversee the work of non-legally qualified paralegals [recommendation 50]** by means of telephone support, remote inspection of case- records, and receiving enquiries direct from advisers.

Management and governance

The Advisory Committee of the Pilot Project consisted of representatives of Council of Europe and CEPEJ, international experts, Ministry of Justice and Legal Aid Administration of Latvia, the national coordinator and her assistant and, according to necessity, other representatives of law-firm CersJurkāns. The Advisory Committee held weekly Pilot Project update meetings and weekly Pilot Project reports were prepared for the discussions⁹⁶. This provides a useful model for future governance by an advisory body or management board. To some extent it amounts to a kind of shadow committee, mirroring and practising what ultimately could be an advisory committee managing primary legal aid advice points in Latvia.

We would like such an advisory committee ultimately to have a wider membership base, though probably no more than 10 to 12 members. It should have cross-sectoral representation from active legal aid stakeholders and other bodies. This would provide a strategic governance to direct policy and practice in a future legal aid network⁹⁷.

In the short term, such an advisory committee would not have formal or legally binding roles, powers to employ or dismiss, or any other legal status – it would just be a way of convening together a cross-sectoral group of interested stakeholders to oversee, observe, suggest, recommend and strategise for the operation of free primary legal aid.

There is a clear **need to identify an institutional basis to give authority and accountability to the operations of the primary legal aid service [recommendation 51]**. If the present pilot is going to give birth to a wider more established scheme of primary legal aid, then **some kind of institutional basis in the form of an advisory board or steering group is more or less essential**

⁹⁶ Section 2, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

⁹⁷ Note: this should be distinguished from day-to-day supervision, which would still be needed by a co-ordinator or team of co-ordinators, to assist advisers with their practical daily problems, and with the substance of the casework and legal issues, as well as practical and emotional support for advisers. We address this below under recommendations 46 to 49.

[recommendation 52]. To reiterate though, it does not need to have legal powers or legal status.

Its benefits include

- strengthening cross-sectoral partnership
- ensuring that all sectors' voice, needs and desires within the legal aid system are heard and met
- to assist the national coordinator in her or his role
- to promulgate the key values that need to be repeatedly instilled in any free legal aid system,
- to strategically, identify weak points (the dropping-out of a provider from the scheme halfway through is a case in point) and take steps to mitigate them
- to monitor the balance of supply and demand, both geographically, as to areas of law and as to client-groups with particular legal needs
- to always bear in mind the interests of advisers at the front line, and the stresses and challenges that they face, and to act in their interests with a view to protecting their mental health

The advisory board would require the participation of a cross-sectoral representation of involved organisations, stakeholders, academics and researchers. There are innate benefits from this breadth of representation. A cross-sectoral approach democratises the structure and is likely to strengthen the capabilities and credibility of the board, and legal aid at large.

We have been asked whether we think it would be useful to create an “inter-institutional advisory institution (council) whose purpose is to develop a curriculum and improve and develop the policy area of legal aid rights”. We consider that those roles are indeed part of the remit of the advisory board. We described above.

Whether or not an advisory board is established, there is in any case **a need to institutionalise active and dedicated management in a future primary legal aid service [recommendation 53]**. Risks already demonstrated in only two months have included things like

- the person-management issues arising around advisers' dissatisfaction
- guarding against the risk of burnout
- lowering of quality
- potential degradation of client-care standards
- reduction in services offered to the public.

It may be that a **dedicated legal aid unit within the Courts Administration is best placed to take over formal management of primary legal aid [recommendation 54]** if and when the service expands to a wider and more permanent operation. Clear protocols of partnership and collaboration would need to be established between the Courts Administration and provider networks and this would potentially include the Ministry of Social Welfare.

A coordinator needs to be appointed as a full-time post [recommendation 55]. She or he must embody overall management principles that derive from a clear constitutional set of legal aid values. In other words, they must also have their own support and line management network. They should derive their authority from within the Courts Administration, and get guidance and support from the advisory committee. If those supports are in place for the coordinator, then that single person's role can strategically keep the primary legal aid service on track.

Role and duties of a co-ordinator should comprise:

- supervise
- support advisers
- deal with human resources issues - within agreed framework vis-à-vis advisers' employers
- ensure the integrity of the service
- ensure the smooth running of the service
- encourage client-centred and quality-focused values
- monitor quality in real time
- assist with providers' practical questions
- assist with any legal points
- assist with onward referral issues
- make sure advertised opening times are being respected
- maintain case management systems uniformly across the service
- assist with or deal with complaints in real time, misbehaving or abusive clients
- ensure case data is collected
- liaise with the Courts Administration, MoJ and, if social workers are deployed, Ministry of Social Welfare

This role can be a full-time job or a full-time secondment. It should be line-managed from within the Courts Administration. And it needs proper funding and resourcing from the Courts Administration.

Model Law - Commentaries to Chapter 3, Legal aid beneficiaries and legal aid providers

UNODC *Model Law on Legal Aid*⁹⁸

In some locations, legal aid providers [...] have formed associations to coordinate strategies for improving the quality of their services and are taking steps together to object to practices that do not correspond to national and international standards. In others, bar associations are playing an active role in overseeing legal aid more generally, interfacing with lawyers, establishing standards, qualifications and training requirements, encouraging mentoring and peer reviewing, and advocating on providers' behalf with State funding authorities for improved conditions so that providers can adequately assist their clients in the exercise of their rights.

In assigned counsel systems, it is useful to have mechanisms in place to maintain the integrity of legal aid services provided, including: (a) policies and practices to guarantee early access to legal aid; (b) systems to ensure that the roster order of on-call lawyers is respected; (c) mechanisms to monitor and uphold the quality of legal services provided, to avoid conflict of interest and to ensure adequate capacities (such as peer review); (d) adequate budget allocations to meet the demand for legal aid services; and (e) processes of payment for legal aid providers that are not overly burdensome.

Further principles from the international perspective

Where public services are concerned with legal aid, it is obvious that the responsible Ministry ensures an adequate design of the entire system, including at least the components of primary and secondary legal aid.

The Ministry or government then determines the framework and budget. In order to carry out this as best as possible and in an independent manner, it makes sense to make one organisation responsible for its supervision and implementation.

It is obvious to place this organisation outside the direct sphere of influence of important players such as the Ministry of Justice, Courts Administration, judiciary, and the Bar Association. Of course, they can and must be and remain involved, but at a distance.

This provides the best guarantee of operating independently on the one hand and using input and cooperation on the other. The elaboration of this can be done in a good plan and control cycle.

This organisation thus created – such as a legal aid board or a legal aid commission in a number of countries – can then, looking at the current structure of the system, transform it into a system in which a clear distinction can be made between the primary and secondary tiers with use of national characteristics, the existing and available legal

⁹⁸ United Nations Model Law on Criminal Legal Aid Systems, Vienna 2017

capacity, the existing need in the country based on a legal needs assessment and the available budget. It goes without saying that this will involve a growth model.

7.10 Case-management and case recording

Caseload management and case-recording in the October-December 2023 Pilot scheme

Record keeping was ensured during the Pilot Project in two ways – by online appointments registers for the people willing to make an appointment before the consultation and by collecting and analysing case record sheets filled in by advisers after the consultations.

So far as the pilot is concerned, records kept about each case have followed a template issued centrally. For each enquiry, there is a record of the following data fields:

A Number of the visitor

B Date

C Place

D Name of the consultant

E Name of the client

F Is the consultant in a conflict of interest regarding this client?

G Place of residence of the client

H Contact (telephone, email) of the client

I Citizenship of the client

J Family status of the client

K Age of the client

L Gender of the client

M Does the client own or rent their home or is homeless?

N Monthly income of the client's family per month per person

O Is the client disabled?

P Employment status of the client

Q Field of law where the consultation is needed

R Had this client signed up for the consultation?

S Has the client applied for secondary legal aid?

T What are the main facts presented by the client?

U What was the substance of the consultation given?

V What is the possible future action to be taken by the client?

W Was the client referred to a particular specialist or institution?

X Would mediation be applicable to the situation?

Is this level of case-recording adequate?

No. The records kept by advisers about the cases they dealt with in the pilot are by definition not to the standard one would expect in a more mature quality-aware primary legal aid system. It could work as the template for a case-management system but is not a substitute for case records. The reasons why case records for the pilot were only kept in the rudimentary form of a common case-record spreadsheet is unclear: this does need to be examined as part of the recommendation process, as this requires improvement. It is likely that the lessons of the previous pilot exercise and the Autumn 2022 workshops were not thought appropriate to apply to a low-key, 10-provider, primary-only operation. We maintain it is appropriate, and necessary.

Advisers received some early training in using this spreadsheet system but we are not sure if it was sufficient, or sufficiently stressed the need for case-record-keeping. Certainly, not all advisers or providers adhered to the system. Some did not do so timeously, or failed to fill in at all. Indeed it is reported in the Pilot Project Analytical Report⁹⁹ that several consultants stressed during their interviews that too *much* information was required and they felt uneasy asking questions regarding family status, income level and similar. Also, clients did not want to sign the consents to processing of their personal data.

It seems that some providers allowed advisers to fill out their case records later on, sometimes not even on the same day as the consultation. That would be unacceptable in a professional primary legal aid service. It would be impossible once a more sophisticated system of case management is inaugurated.

But the system adopted was somewhat functional as a rudimentary case management system: see recommendations below for what this means. It affords a reasonable at-a-glance overview of the advice point's current work.

Risks of inadequate case-recording include:

- impossible to monitor quality properly by means of casefile review
- impossible to defend a charge of professional negligence through poor or wrong advice
- difficulties for another adviser (or even the same adviser) to see an existing client a second time and be apprised of what happened the first time

⁹⁹ Section 3.2, Analytical Report on the Pilot Project on Legal Aid – Inga Bite, Jānis Jurkāns and Inita Apšeniece - European Commission for the Efficiency of Justice – January 2024

- if a common cross-system spreadsheet is used, you can instantly see all the case records, including other advisers', so there is risk of data leakage

Recommendations on case management and case recording

- **It is essential to instigate a case management system¹⁰⁰ [recommendation 56].**
- **Case-management should comprise an overarching system for each provider to keep track of all current and past cases [recommendation 57], and**
- **case-specific records or files for each case / client / matter [recommendation 58]**

Interestingly, the case-record spreadsheet that was used in the pilot forms a reasonably viable overarching case-management model, with a few adjustments, whereas it is much less functional in terms of case-specific records.

Case-management system

A case-management system gives the provider an overview of the caseload. It is shared by the whole individual provider organisation. It can be as simple as a spreadsheet¹⁰¹, a paper-based diary and ledger, or a more sophisticated relational database. Both off-the-shelf and bespoke software exists. It needs to have listing, flagging-up, categorising and diary functionality. A manager, supervisor or duty adviser needs to be able to see, at a glance

- what deadlines are forthcoming in (for example) one week's time
- what cases a given worker was conducting – should they for example go on sick-leave
- when this now impatient client previously came in for advice and who advised them
- whether there is a conflict of interests caused by representing opposing parties
- how the appointment bookings are looking (for example) for next Tuesday
- what are today's client-related to-do's
- did we miss any flagged dates yesterday?

The case management system needs to be maintained and its use encouraged – perhaps enforced – by both the primary legal aid coordination body and by an individual (adviser or manager) within each primary legal aid advice point. Advisers' resistance to keeping detailed records must be overcome with training and awareness-raising. **It is therefore recommended that it is necessary to have training on not**

¹⁰⁰ It can also be called caseload management

¹⁰¹ The case record spreadsheet used in the pilot project is a good example and with a few adjustments would work well

only the mechanics of a case management system, and case recording, but also the absolute need for it [recommendation 59].

Casefiles

A new casefile, digital or on paper, should be opened for each new matter. In a primary legal aid setting it need not be complex: a simple card folder in which items can be added and kept in order, or a virtual folder on a shared drive with agreed protocol for naming files and classifying them in subfolders.

The detail of what casefiles should contain is elaborated more fully in the accompanying paper on Quality. **The importance of maintaining organised, clear and informative casefiles cannot be overstated.**

7.11 Data processing for strategic planning

Our assessment of the use of data by the pilot project

If we keep in mind that the time frame for setting up the second pilot and the duration of this pilot was very limited, it is logical that the collection of the limited information that was available could not immediately be carried out in the most adequate manner. The information obtained was – necessarily – limited in nature and the time was too short to make adjustments based on that data.

However, there are examples of what could have been done based on the available material.

It soon became apparent that the number of inheritance cases was quite large on the one hand and that the options for providing immediate help here were limited on the other. Based on these results, a decision could actually be made quickly to make adjustments. This could be done, among other things, by setting up special consultation hours for these types of cases, by engaging a special group of providers, for example notaries or notary clerks, by designing special training or additional information material for this.

It cannot be ruled out that, based on more available data, signals of shortcomings in legislation and regulations and in their implementation could have led to specific interventions or structural corrections.

Why data collection and processing matters in a legal aid system?

An adequate design and setup of a registration system and files is also very important for monitoring and data collection and therefore also for research, since they are connected items.

Data collection and monitoring is useful in determining the best way to proceed, because empirical data do not tell lies. It is useful for the Government, the Ministry of Justice, the legal aid authority, the Bar, the Courts, NGOs, Public Prosecution, Police,

consumer organisations, and others to exactly figure out how the system of legal aid operates, how it performs and if and whether the goals are achieved.

The need to collect, coordinate and analyse data and information in order to better identify the legal needs of citizens is of great importance. This is the essential first step in order to investigate if the system responds in the best possible way to the needs of the citizens.

Interrogations of the figures do matter because they can flag up issues that need remedial action such as

- structural problems eg structural / institutional prejudice, a potential shortage of legal aid providers with particular specialisms, shortage of providers in particular regions/towns
- inadequate communication with / advertising to the public
- an unwillingness of certain sections of society to trust or have dealings with legal aid (and why would that be?)
- regional or local spikes suggesting a social problem that needs better legal aid resource injected in that place, perhaps for a time-limited period
- differences in approach by different providers as to client care, willingness to pursue clients' matters or negative levels of discouragement of enquirers by providers, leading to fewer applications pursued
- underperformance by particular providers in the system, in terms of customer-care or other quality measures, with insight as to how they can be assisted to improve

Through continuously analysing the set of data that is available within the system of legal aid, the legal aid authority has the possibility of following the supply and demand for legal aid and to register over time the need to adapt the system in the face of changing conditions, so that the extent to which the objectives of the law are met is effectively monitored.

For policy-makers, politicians and other stakeholders in the justice system data collection and research can be a useful source of information. Facts and figures can inform the debate (as it does in many jurisdictions) on legal aid budgets and on the measures taken to reduce costs while maintaining the level of quality of the current system.

The continuous monitoring of the status quo of the system is important for the assessment of the question whether the legal aid system is adequately succeeding in achieving the objective of legal aid, namely to provide the client with enough access to find a solution for his/her legal problem and to ensure that services provided within the system are of good quality.

Also tracking the development of the supply of service providers is one of the objectives of the legal aid system, which is certainly not insignificant with respect to the position of the legal profession and the availability of service providers for the legal aid system itself.

Measurable changes

Deliverable, measurable changes should ensue. These include

- better reporting: the annual report for example will be able to include a wider and less ambiguous spread of statistics which will be of more interest to readers. They will allow for strategic responses to any discrepancies, unexpected or undesirable results, or biases in favour of or against particular groups in the community.
- responsiveness to lawmakers' enquiries: this is often key to keeping elected politicians onside with the concept of legal aid, as they can see (if they wish) how their voters get tangible results and can perceive that the legal aid scheme is responsive and accountable to them
- empirical policy recommendations: if particular social needs or difficulties are noticed through legal aid statistical information, this can be shared with policy-makers across government to deliver more joined-up thinking and to position the legal aid system not only as assistance to the vulnerable population but also as an observatory for certain social trends. But also, the legal aid administration and the wider MoJ or CA can analyse better where to target resource (whether geographically or regarding vulnerable groups)
- better-tailored bids for funding for legal aid: these may be able to sync better with other government priorities, eg remedying gender discrimination or increasing access to services generally for disabled people.

Recommendations on data-collection and processing

Data-collection and its strategic use must start to become embedded in the culture of the overall legal aid system [recommendation 60].

The final recommendation is that **a small working party be tasked with working towards a standard for better data-collection and better use of data [recommendation 61]** within Latvian legal aid. It needs to consider the already embryonic use of a simple shared database, but with better emphasis on analysing the content of the data in real time. It would need to ask questions about what the legal aid administration needs to know, how it will collect data, how it will act on the collected data. A strategy for the analysis of database observations and a system of reacting to the results of data collected can be created. It can respond in real-time, in a well-designed system. A system of red, yellow and green flags can be created for given data results to denote the level of urgency with which they indicate change, response or keeping status quo.

8 Annex I

Examples of early intervention (primary legal aid or preliminary legal aid) in the Explanatory Memorandum to the Council of Europe Committee of Ministers Legal Aid Guidelines, 2021

Early intervention with the help of legal aid systems (preliminary legal aid)

9. *The early intervention of easily accessible and timely legal advice and assistance can help to prevent legal problems from occurring or escalating. Use of early intervention mechanisms and techniques can increase understanding, awareness and accessibility of legal services. It can also help to avoid costly and time-consuming court proceedings. In Poland, information on legal aid (brochures and leaflets) is disseminated by post, especially to older adults or people with disabilities.*

10. *It is recommended that a holistic approach and information technology (IT) solutions be implemented when using early intervention mechanisms and techniques. Some examples of the holistic approach (for example, “one-stop shops” – a single location where different legal services are provided by different governmental bodies) can be found below. IT solutions may include creating a website that informs users about the kinds of support available to them and how they can apply for legal aid. Ideally, such information should be provided on a single website, particularly when there is more than one type of legal aid available in a member State. This website should help users to identify and resolve their legal issues and should provide accurate information in an intelligible manner. It should be user-friendly, interactive and integrated with individualised assistance, including face-to-face legal aid services. Member States are also encouraged to develop chatbots that could provide legal information. Chatbots could be used to explain to users how legal advice and assistance can be obtained and help them create their own legal documents. Legal information can also be disseminated by means of printed materials, call services, Skype, online chat services and mobile teams.*

11. *Some member States report that they successfully provide legal information using holistic and integrated approaches, such as in the form of “one-stop shops”. For example, in Latvia, local self-government bodies provide individuals with various types of assistance, including legal aid services. A holistic approach also presupposes that different governmental and non-governmental bodies*

work in close cooperation to address legal problems at an early stage. For example, in Croatia and Norway, State authorities co-operate with NGOs in providing basic legal advice. In 2019, the United Kingdom (England and Wales) published its Legal Support Action Plan, which includes an aim to work collaboratively to pilot, test and evaluate the provision of holistic legal support hubs to more effectively support earlier resolution of a person’s legal problems. Ukraine implemented a Civil Counsellors’ Initiative, in the framework of which legal advice is being provided through respected members of local communities, who disseminate legal information and refer persons with legal

problems to the legal aid system. In France, the existing network of 1 340 legal access points, which allow everyone to access information on justice and the law, should be increased up to 2 000 by 2022. In Poland, since 2020, free mediation has been available at every free legal aid point in each poviát (district). The mediation meeting is conducted by a professional mediator. All assistance provided under the system of legal aid and civic counselling is completely free.

12. Many member States use various IT solutions to ensure access to legal information. One of the best examples of provision of legal information via a website is the *Rechtwijzer* (“conflict resolution guide” or “interactive platform to justice”), a legal advice website developed by the Dutch Legal Aid Board (the Netherlands). It is run by a joint committee with the support of a number of stakeholders, including the bar association. This website provides legal assistance by means of a “decision tree”, which helps individuals to find solutions to their legal problems in an interactive manner. The website also refers users to an appropriate expert or organisation if necessary. An additional important feature of this website is an online platform which allows people to settle legal conflicts through negotiations with another party to the conflict with the involvement of an impartial third party in an online “dialogue”. In particular, this type of assistance is provided in divorce cases. Ukraine put in place *Wikilegalaid*, an open database where individuals can find legal information, including on how to deal with the most widespread legal problems. In the United Kingdom (England and Wales), individuals can access comprehensive information on a variety of potential legal issues on the government website (www.gov.uk), including the steps that may need to be taken to resolve the problem. This website also advises individuals where legal aid may be available to resolve their problem and directs them to the legal aid system, including to an online tool that diagnoses if an individual is likely to qualify for funding, or to other sources of advice where relevant. In France, the website www.service-public.fr and the portal www.justice.fr include information on the organisation of justice, legal proceedings, offences and criminal sanctions, which is thus available to everyone. In particular, people can find all relevant information on legal aid and a simulator of eligibility for legal aid based on the calculation of the applicant’s resources.

13. Some member States are developing chatbots. In Belgium, the Flemish Bar Association has launched a chatbot named Victor (although the name varies depending on the region) in order to answer simple questions on the primary and secondary legal aid system. The chatbot uses questions to determine whether a person seeking legal aid is eligible for it. The chatbot provides information regarding the documents required to apply for legal aid, including where a person can seek further help. A person who is not eligible for initial free advice or pro bono assistance will be redirected to a lawyer module, hosted on the website of the Flemish Bar Association, which takes into account the issue concerned and the location. In Finland, the legal aid offices’ chat service is accessible through a dedicated website on legal aid and enables people to ask for legal advice easily and free of charge. Through this service, legal aid providers and legal aid secretaries provide general legal information and information on legal aid. The chat service does not require registration or any

disclosure of personal information and questions can be asked anonymously. It is not possible to receive advice on an individual case through the chat service.

9 Annex II

9.1 UN principles and guidelines on access to legal aid in criminal justice systems

The UN principles and guidelines recognizes the term legal aid as *“legal aid” that includes legal advice, assistance and representation for persons detained, arrested or imprisoned, suspected or accused of, or charged with a criminal offence and for victims and witnesses in the criminal justice process that is provided at no cost for those without sufficient means or when the interests of justice so require. Furthermore, “legal aid” is intended to include the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes.*¹⁰²

The individuals who provide legal aid are referred to as the “legal aid providers”, and the organisations that provide legal aid are referred to as the “legal aid service providers”. The first providers of legal aid are lawyers¹⁰³, but the Principles and Guidelines also suggest that States involve a wide range of stakeholders as legal aid service providers in the form of non-governmental organisations, community-based organisations, religious and non-religious charitable organisations, professional bodies and associations and academia.¹⁰⁴

Within the Principle 8 Right to be informed

“States should ensure that, prior to any questioning and at the time of deprivation of liberty, persons are informed of their right to legal aid and other procedural safeguards as well as of the potential consequences of voluntarily waiving those rights. 30. States should ensure that information on rights during the criminal justice process and on legal aid services is made freely available and is accessible to the public.”

Principle 10 Equity in access to legal aid foresees that

“Special measures should be taken to ensure meaningful access to legal aid for women, children and groups with special needs, including, but not limited to, the elderly, minorities, persons with disabilities, persons with mental illnesses, persons living with HIV and other

¹⁰² UNODC United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, UN, New York, 2013: https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf , page 6 point 8

¹⁰³ However, we note that increasingly it is being accepted that legal aid providers can include non-lawyers

¹⁰⁴ Ibid, point 9

serious contagious diseases, drug users, indigenous and aboriginal people, stateless persons, asylum seekers, foreign citizens, migrants and migrant workers, refugees and internally displaced persons. Such measures should address the special needs of those groups, including gender-sensitive and age-appropriate measures. States should also ensure that legal aid is provided to persons living in rural, remote and economically and socially disadvantaged areas and to persons who are members of economically and socially disadvantaged groups.”

Guideline 2 Right to be informed on legal aid, points to the fact that in order for the States to ensure that the right of persons to be informed of their right to legal aid is guaranteed, the States should ensure:

(a) Information on the right to legal aid and what such aid consists of, including the availability of legal aid services and how to access such services and other relevant information, is made available to the community and to the general public in local government offices and educational and religious institutions and through the media, including the Internet, or other appropriate means;

(b) Information is made available to isolated groups and marginalised groups. Use should be made of radio and television programmes, regional and local newspapers, the Internet and other means, in particular, following changes to the law or specific issues affecting a community, targeted community meetings.

In regard to the possible structure of the system or in this case the mechanism for legal aid, the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems¹⁰⁵ recommends the establishment of a single independent body:

From Guideline 11 Nationwide legal aid system

59. To ensure the effective implementation of nationwide legal aid schemes, States should consider establishing a legal aid body or authority to provide, administer, coordinate and monitor legal aid services. Such a body should:

(a) Be free from undue political or judicial interference¹⁰⁶, be independent of the Government in decision-making related to legal aid and not be subject to the direction, control or financial intimidation of any person or authority in the performance of its functions, regardless of its administrative structure;

(b) Have the necessary powers to provide legal aid, including but not limited to the appointment of personnel; the designation of legal aid services to individuals; the setting of criteria and accreditation of legal aid providers, including training requirements; the oversight of legal aid providers and the establishment of

¹⁰⁵ UNODC United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, UN, New York, 2013: https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf

¹⁰⁶ In this regard the transfer of responsibility for state legal aid to Latvia's Judicial Administration (see section 3.2) will need to be kept under close observation

independent bodies to handle complaints against them; the assessment of legal aid needs nationwide; and the power to develop its own budget;

(c) Develop, in consultation with key justice sector stakeholders and civil society organisations, a long-term strategy guiding the evolution and sustainability of legal aid;

(d) Report periodically to the responsible authority.

9.2 UNODC Model Law on Legal aid

While the Model Law does not formally distinguish between primary and secondary legal aid, it notes that

“there is such a distinction in some jurisdictions. Primary legal aid generally refers to information, advice and assistance, while secondary legal aid refers to legal representation in court. The distinction between primary and secondary legal aid is relevant to the question of what type of legal aid provider can be assigned to a specific case, as legal practitioners may provide both primary and secondary legal aid, but other types of legal aid providers (e.g., paralegals) can provide only primary legal aid”¹⁰⁷. Some examples of the distinction can be found below.

Comparative models

Article 4. Forms of legal aid

(1) Legal aid is received in the form of primary or secondary legal aid.

(2) Primary legal aid comprises:

- general legal information*
- legal advice*
- legal assistance in drawing up documents before administrative bodies and legal entities vested with public authority*
- representation in administrative matters*
- legal aid in peaceful out-of-court settlement of disputes*
- representation before the European Court of Human Rights and international organisations, if this is in accordance with international agreements and regulations on the work of those bodies*

(3) Secondary legal aid consists of:

- representation before courts*

¹⁰⁷ The hard boundaries are beginning to blur though: there is no fundamental reason why primary legal aid can't legitimately provide for representation before certain courts and tribunals as long as rigorous quality controls are in place.

- *legal aid in peaceful settlement of disputes before a court*
- *drawing up documents in court proceedings*

Article 5. Authorised services

1. Authorised services of free legal aid shall be provided within primary and secondary legal aid.

2. Primary legal aid includes the following services:

2.1. Information and legal advice regarding legal procedures;

2.2. Drafting of paperwork and all other technical aid that has to do with completion of the case;

2.3. Representation in civil, administrative and minor offence procedure;

2.4. Defence and representation in all phases of criminal procedure;

2.5. Information and legal advice related to violation proceedings;

2.6. Information, legal advice and aid in the mediating and arbitral procedures as foreseen by the law in force.

There is room for debate about whether primary legal aid should enjoy quite such a wide scope as the functions set out in items 2.3 to 2.6 under authorised services. It should not be excluded. The expert team doesn't at present take a fixed view on this. It is unlikely primary legal aid can be expected to cover representation before the European Court of Human Rights, and international organisations, these being more suitable as a secondary legal aid offer in the Latvian context.

9.3 UNODC Global Study on Legal Aid: Global Report 2016

The Global Study¹⁰⁸ defines primary legal aid thus:

Primary legal aid – *This form of legal aid involves the provision of information, referral to territorial offices, mediation and public education. It is available regardless of the financial circumstances of the applicant, and is provided either immediately on request or within a maximum of several days of submission of the request.*

9.4 CoE Committee of Ministers Guidelines 2021

The Council of Europe Committee of Ministers acknowledge the need for primary legal aid in the form of early intervention or, as they put it, preliminary legal aid to deal with problems at source as far as possible:

¹⁰⁸ UNODC & UN Development Programme: Global Study on Legal Aid, 2016

Early intervention with the help of legal aid systems (preliminary legal aid)

5. *The use of early intervention mechanisms and techniques to help resolve legal disputes quickly and, as far as possible, at the source should be encouraged in order to alleviate financial demands on the legal aid scheme and, more generally, pressure on the legal system.*

6. *Consideration should be given to, in particular, the following mechanisms and techniques:*

- *making widely available, and easily accessible for everyone, information on law and the legal system and, in particular, on legal rights, obligations and remedies;*
- *providing the public with easy access to legal advice and assistance through integrated and/or holistic public services (for example, “one- stop shops”) in areas such as social policy, health, housing, employment and education;*
- *supporting access to information on legal rights, obligations and remedies through integrated and interactive information technology solutions.*

This was elaborated with examples in the Explanatory Memorandum to the guidelines, appended to this document at Annex I.

10 Annex III

The Analytical Report on the Pilot Project on Legal Aid begins on the next page.

Analytical Report on the Pilot Project on Legal Aid

European Commission for the Efficiency of Justice (CEPEJ)

“Strengthening access to justice in Latvia through fostering mediation and legal aid services (Phase II)”

January 2024

Jānis Jurkāns

Sworn Attorney, Law Office “CersJurkāns”, Latvia

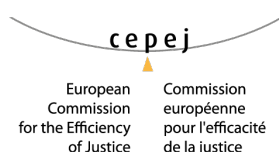
Inita Apšeniece

Sworn Attorney, Law Office “CersJurkāns”, Latvia

Inga BITE

Coordinator of the Pilot Project

Lawyer, Law Office “CersJurkāns”, Latvia



Ministry of Justice of the Republic of Latvia



Contents

| | | |
|-----|--|----|
| 1 | Context | 2 |
| 2 | The scope of the Pilot Project..... | 3 |
| 3 | Monitoring and evaluation procedures..... | 5 |
| 3.1 | Monitoring | 5 |
| 3.2 | Evaluation | 5 |
| 4 | The technicalities of the Pilot Project..... | 6 |
| 4.1 | Preparation of the Pilot Project..... | 6 |
| 4.2 | Consultants for the Pilot Project | 6 |
| 4.3 | Conclusions of the consultants..... | 8 |
| 4.4 | Training | 10 |
| 4.5 | Communication of the Pilot Project | 11 |
| 4.6 | Premises of the Pilot Project | 13 |
| 4.7 | Closing event | 13 |
| 5 | Numeric analysis of the Pilot Project | 15 |
| 6 | Numeric analysis of the client satisfaction questionnaire..... | 18 |
| 7 | Recommendations..... | 23 |

1 Context

The existing legal aid system in Latvia is primarily aimed to serve clients in need for secondary legal aid. It is mostly provided for a lawyer's participation in litigation or assistance with rather complex issues. Consequently, the existing legal aid system is also means - tested and legal aid is limited only to needy and poor persons. Although one consultation is also possible through existing system, obtaining the necessary status might be a procedure not proportionate to the gain of receiving one legal consultation.

Therefore, the work has been started to implement a primary legal aid system in Latvia. The discussions have been ongoing for several years. In 2020 a locally conducted study "Access to justice in Latvia"¹⁰⁹ was carried out, in which introduction of primary legal aid mechanism was suggested. In parallel, during the period of 2019-2021 a project "Strengthening the access to justice in Latvia through fostering mediation and legal aid services, as well as support to the development of judicial policies and to increased quality of court management" (henceforth - **Phase I project**) was carried out jointly between the Ministry of Justice of the Republic of Latvia and European Commission for the Efficiency of Justice (CEPEJ) with support from the Structural Reform Support Service. Also, this project recommended to introduce a primary legal aid system.

During the Phase I project a Pilot project was organized and carried out, offering free legal consultations in two biggest cities of Latvia - Riga and Daugavpils. The consultations were provided by trained lawyers- people qualified for providing secondary legal aid in Latvia according to the existing legislation.

In the continuation of the first project another project "Strengthening access to justice in Latvia through fostering mediation and legal aid services (Phase II)" (henceforth - **Phase II project**) was initiated and is implemented during the time period from December 2021 to March 2024.

The Pilot project analyzed in this report forms one part of the Phase II project. It was aimed at piloting a possibility of primary legal aid being provided by specially trained professionals who are not lawyers in order to expand the potential availability of primary legal aid making it as close as possible to peoples' everyday lives.

¹⁰⁹ The study is still available here:

https://ppdb.mk.gov.lv/wp-content/uploads/2020/06/Pieejas_tiesiskumam_Latvija_Gala_zinojums_26062020-1.pdf

2 The scope of the Pilot Project

The pilot project on legal aid which was set up and conducted during the Phase I project Project demonstrated a high need in Latvia for free primary legal aid.

Therefore Output 3 of the Phase II project asks for elaboration of a report on a tailored preliminary legal aid mechanism, considering also the possible recourse to mediation, for its integration in the Latvian free legal aid system. Activities under this output are approved as follows:

Activity 3.1 Design and development of a pilot project offering primary legal aid to people in Latvia.

Activity 3.2 Implementation of the pilot project.

Activity 3.3 In-depth analysis of the previous pilot project on legal aid by experts, the recommendations of which would allow for an adapted continuation of the pilot taking into consideration also the integration of mediation in the process.

This Pilot project was developed with the intention of it being turned into a sustainable service carried out by the beneficiary.

The actual logistical implementation of the Pilot project was outsourced to a team of consultants – Law office “CersJurkāns”. The team provided for all the necessary logistical, informative, communications and substantial as well as emotional support to the consultants before, during and after the pilot project. The coordination work included :

- ✓ inviting the participants of the pilot project ;
- ✓ equipping them with the necessary information ;
- ✓ organizing training on the substance of law ;
- ✓ coordinating everyday work of all the consultants ;
- ✓ advising the consultants on the substance of law during the consultation period ;
- ✓ communicating with the consultants regarding the difficulties they face ;
- ✓ answering the email box, Facebook page and telephone number of the Pilot project ;
- ✓ maintaining the informative section of the Pilot project on the webpage of Legal Aid Administration and the Project Facebook page;
- ✓ everyday communication with national and local media regarding the activities of the Pilot project ;
- ✓ gathering and analyzing the case registers submitted by the consultants ;

- ✓ preparing weekly reports to the Advisory Committee of the project ;
- ✓ interviewing the consultants after the end of the Pilot project ;
- ✓ preparing this analytical report.

The team consisted of five sworn advocates, three lawyers, one communications specialist and a visual content designer working together and communicating on a daily basis.

The Pilot project was carried out in Latvia for 8 weeks – from October 2, 2023, to December 8, 2023. It involved nineteen consultants in seven cities of Latvia and a team of consultants providing telephone consultations. The locations for the Pilot project were chosen according to the availability of the consultants offering their voluntary work to reach the goals of the Pilot project.

The Advisory Committee of the Pilot project consisted of the representatives of Council of Europe and CEPEJ, international experts, Ministry of Justice, and Legal Aid Administration of Latvia the national coordinator and her assistant according to the necessity – other representatives of Law office “CersJurkāns”. Advisory Committee held weekly Pilot project update meetings and [weekly Pilot project reports](#) were prepared for the discussions.

The cities where the consultations were carried out differed a lot in terms of inhabitants, size of the city, location, and national composition of the population.

3 Monitoring and evaluation procedures

This document builds upon and corresponds to the terms set out and agreed in two specific documents of the project:

1. “Terms of Reference for the future pilot project on Legal Aid” and
2. “Detailed Project Description “Strengthening access to justice in Latvia through fostering mediation and legal aid services (Phase II)””.

Also, a “Handbook for the one-stop advice service pilot project on legal aid” developed during the Phase I project was used for the preparation of case register files and personal data processing consent forms. Also a client satisfaction questionnaire elaborated for the Phase I project was used in order to ensure comparability.

3.1 Monitoring

- *On-going monitoring during the operation of the pilot was carried out and necessary adjustments were made in the course of the project, reacting accordingly to the emerging internal and external conditions.*
- *Record keeping was ensured during the Pilot Project in two ways – by online appointments registers for the people willing to make an appointment before the consultation and by collecting and analysing case record sheets filled in by the national advisors after the consultations. Several consultants stressed during their interviews that too much information was required and they felt uneasy asking questions regarding family status, income level and similar. Also, clients did not want to sign the consents to processing of their personal data*
- *[Client satisfaction survey](#) was carried out after the end of the Pilot Project.*

3.2 Evaluation

- *The numerical statistics of the project has been analysed according to the [case register sheets](#).*
- *Client satisfaction questionnaire was developed and a special request to fill it in online was sent to each of the clients who had given their consent to do so and pointed out either their email address or telephone number.*
- *Individual conversations were carried out after the pilot project with each of the national advisors.*
- *A special [questionnaire for the consultants](#) was developed and filled in after the end of the Pilot project.*

4 The technicalities of the Pilot Project

4.1 Preparation of the Pilot Project

The preparation of the Pilot Project was carried out in two phases. At the initial phase the Ministry of Justice sent out invitations to all municipalities offering them to take part in the Pilot project.

In July 2023 a Grant agreement No.BH4900/G/LV/2023/1 was signed, outsourcing the Project preparation and coordination tasks to Law office “CersJurkāns”. After that preparations for the training were made in collaboration with Local Governments Training Centre of Latvia.

Before the training another invitation to participate in the Pilot project was sent out via the contacts of the Local Governments Training Centre of Latvia. It attracted a few more consultation providers. One person applied, but withdrew the application immediately after finding out that no remuneration will be provided for the consultants of the Pilot project.

4.2 Consultants for the Pilot Project

As a result of two calls for participation [nineteen consultants](#) signed up for the task of providing the consultations. No competition was organized and there were no selection criteria apart from that the people should already be working for a social service, legal clinic or NGO on an everyday basis. This led to a very diverse pool of people with very different traits of character, educational and experience background. Several consultants did have legal education even though they did not practice law every day.

Participation in the Pilot project according to the recommendation of the Ministry of Justice of Latvia was offered to municipalities (social departments), NGOs and legal clinics. The participants of the Pilot project were as follows:

1. Legal clinic of the University of Latvia, Faculty of Law (Riga).
2. NGO “Marta” (dealing with domestic violence and human trafficking) in Liepāja.
3. NGO “Skalbes” (crisis counseling center) providing telephone consultations.
4. Riga SOS villages (2 consultants).
5. Social service of Sigulda ensuring consultations in Sigulda and Mālpils.
6. Social service of Madona.
7. Social service of Ogre.
8. Social service of Kuldīga (4 consultants).
9. Riga shelter.
10. Nursing home “Auce” (Dobele parish).

No agreements were signed with the consultants, therefore there was no legally binding relationship between the Project and the consultants. Some problems occurred with the discipline regarding consulting schedules and case registers since no legal obligations were established. But this may also be due to the workload of the

consultants since they were not freed from their daily tasks. The consultants signed up as many people as they thought they can manage, which in some cases was as little as 2 or 3 persons per week. Some had not warned the project about their planned absence, some got sick and did not have anybody to replace them.

During the training the consultants expressed their wish to manage their appointments themselves. Therefore, all information about the project available publicly included their phone numbers. This led to several problems during the course of the project because the potential clients called regardless of consultation or working hours, sometimes even during the weekends. This caused exhaustion and significantly higher stress level to some of the consultants since their everyday tasks were disturbed by the calls of the project.

One of the consultants was also very upset and concerned about people calling and not being able to speak neither Latvian nor English language. They were able to speak only in Russian and that was not acceptable to the particular consultant. This issue caused several conflicts between the consultant and people calling. Here it must be reminded that in Latvia there is only one official language – Latvian language, and public administration institutions or other persons are not required to speak Russian. The situation has become more intense after Russia's military invasion in Ukraine.

If similar primary legal aid model will be applied in the future, it would be recommended to centralize the calls so that they can all be answered in a similar manner and the appointments can be distributed considering the workload of each individual consultant. Also, in such case the consultants will not be disturbed in their work by unpredictable number of calls.

The appointments were organized either by a direct call to the consultants, or via a centralized Project email, Facebook messenger or telephone number. In order to coordinate the existing appointments and free slots, [online calendars](#) were created for each of the places of consultations available to both the consultants of the particular place and the project coordination team via Google documents. They were used according to the computer literacy and skills of the consultants. Some of them used the calendars, the others did not.

The consultations were mostly provided on an appointment basis although drop – in sessions were also available if the consultant was there and ready to consult.

It would be recommended to arrange a common appointment system visible to the consultants AND coordinators to be able to assess the workload of each of the consultants and rearrange the consultations if necessary.

One month after the start of the Pilot project Riga SOS villages withdrew their participation considering that participation in the project is not compatible with their daily work. They wrote in their withdrawal email:

“We are discontinuing our participation in the project. The main and most serious reason cited is a lack of time. The project consumes a significant amount of time, including answering calls, gathering information, preparing for consultations, and receiving phone calls at the most inconvenient times, all of which significantly

disrupt our core work. If we fail to complete our core tasks, our organization doesn't receive payment, and as a result, our colleagues suffer too.

Secondly, there is no benefit for us in all of this; I won't even mention payment. There is no new knowledge or experience gained because these kinds of consultations are already a part of our daily routine.

Thirdly, all those who came already knew what they needed; they wanted solutions, some form of action. Everyone who came was educated enough, given that they could schedule a consultation. Practically everything we recommended was already known to them; they simply wanted free assistance because they would have to pay for notaries and other specialists."

4.3 Conclusions of the consultants

After the end of the Project each consultant was interviewed. As a result of the interviews, the questionnaire was filled in by the interviewer, summarising the answers given by the consultants.

Most of the consultants considered that the Pilot project was useful and necessary to the society – 70% or partly necessary (20%). Some doubted this and answered “sooner no” – 10%.

Asked, whether a non-lawyer can provide primary legal aid, the opinions differed. Only two consultants were confident that it is possible. One person was confident that such kind of consultations should not be offered by a non-lawyer, two people said they think it would be partly possible (not to all questions) while the rest admitted the possibility, but each with some conditions. The conditions were regarding a proper training or personal traits of the consultant (willingness to learn new things constantly, stress resistance).

Evaluating gains from participation in the Pilot project the consultants mentioned:

- *people are more open, they express their problem more freely to a social worker;*
- *it was a possibility to gain experience and learn new skills, increase knowledge base;*
- *the service was more available to people in rural regions;*
- *the client can clarify important social and legal issues with one consultant*
- *the possibility that clients will not need help of the social service if the cases are legally settled in time or the problems are solved in time;*
- *Students had the opportunity to observe and learn interviewing skills. It was possible to take people on immediately as clients of the legal clinic;*

Evaluating negative aspects of the Pilot project the consultants said:

- *unforeseen work interfered with customer consultations;*
- *significant increase of workload;*
- *unplanned telephone conversations, excessive number of calls;*
- *lack of time to serve more customers;*
- *clients expected more than only a referral;*

- *social workers are busy on a daily basis with case management, helping clients to solve their everyday problems. There is no capacity for such duty;*
- *the word "legal" in the title of the project is misleading. Clients expect to be met by lawyers;*
- *due to the pilot project everyday duties had to be filled out of working hours*
- *people came with problems that had not been solved for a long time.*

These answers as well as the others show the very big difference between the consultants that could be observed during the course of the whole Pilot project. Some consultants were well prepared to help people and did have the resources for the consultations and for the phone calls while the others did not. Obviously, people with legal background did feel more confident, but there were also people with no legal background doing very well.

It is obvious that in case primary legal aid is assigned to social workers, their everyday tasks must be rearranged accordingly so that they are not obliged to work above normal working hours.

Bearing in mind that primary legal aid will most probably not be means-tested, the question is still open whether people who are not "usual clients" of social services will look for primary legal aid in a social service and whether people whose everyday tasks are different will be able to accumulate sufficient level of knowledge to answer all the specific questions.

During the consultations it became visible that there are several segments of people looking for primary legal aid:

1. People who need referrals to the right place (inheritance cases and notaries);
2. People who need one general consultation (divorce, housing, child custody);
3. People who need one consultation but it is very specific (taxes, entrepreneurship, employment benefits);
4. People who cannot accept an unfavourable or unwanted answer and therefore look for second, third, etc. opinion;
5. People who need secondary legal aid.

It is rather clear that the first and second group can and should be served by the primary legal aid system while the fifth group should use secondary legal aid possibilities. It is still debatable whether third and fourth group of people must be served by primary legal aid system and if yes then whether a specialist who is not a lawyer can do that at an acceptably high quality.

Being asked for their opinion about the scope of the primary legal aid, most consultants answered that according to their understanding the Pilot project did cover this scope – one consultation showing the way. Yet many also mentioned that this scope is not clear to the clients who are coming to get their problems solved and are disappointed to hear that they must do the work themselves.

4.4 Training

Before the start of the Pilot project training was organized in order to train the specialists on substantive legal issues like Civil law, Criminal Law and Administrative law. The overall length of the training was one day, and 90 minutes were allocated to each of the global topics.

Undoubtedly, 90 minutes is too little to explain the nuances therefore the experience of the first pilot project was very much used in preparation of the training. The issues most topical for people who used the possibilities of pilot project for the phase I project were taken as a basis for preparing the training courses.

Each lecture was recorded and additional materials were added. At the end of the lecture a test was offered to check the knowledge gained.

The lectures provided were as follows. All the materials including video recordings can be found in the links:

1. [Civil rights](#)
2. [Public administration structure](#)
3. [Basics of Criminal Matters](#)
4. [Lessons learned from the First Pilot Project](#)

Asked whether they had enough information and knowledge to give consultations, the consultants answered:

- *I didn't know the answer to approximately 2% of questions that were directly related to business.*
- *Definitely not. People really wanted to receive quality advice, not directions where to turn (referrals).*
- *Yes. And there's always the internet. And there are always colleagues who are ready to help.*
- *Partly*

After the pilot project analysing the impact of the training, the consultants said:

- *Training was great but it should be more regular (several consultants suggested regular trainings).*
- *Supervisions would be useful to be able to share news and exchange experiences. It is valuable to learn about the experiences of other consultants.*
- *Legal education is necessary for high-quality consultations.*
- *One-time trainings for 2 - 4 days, then trainings according to necessity on the most pressing issues, changes in regulatory acts, consultants' most frequent questions.*
- *One-time training even for a week would not be enough. Training should be regular (1 day per month) and/or as needed on current issues.*
- *My current topical issues: submissions to the State Archives, the activities of Bailiffs, issues of Ukrainian refugees.*

The society, legislation and needs of the people are constantly changing. And knowledge and skills necessary for consultants change with them. The training should adapt accordingly.

Therefore, an adaptive training system should be preferred over a constant one. Maybe one day per month might be offered for trainings, devoted fully to one topical subject. For example. The pilot project shower inheritance as the most topical issue for the clients, therefore one training day might be offered on this topic with proper time devoted to discussions, questions, and roleplay. The lecturer in this case might be a practicing notary, who is aware not only about the law but also about the practice, peculiarities and potential problems arising in the implementation of the particular field of law.

Another focus of the training might be entrepreneurship and taxes, which turned out to be most problematic for the consultants. But here it should first be decided whether these truly complicated issues should at all be covered by primary legal aid consultations, since it is easy to give a wrongful answer here without exploring all the documents and available public registers.

Also, supervisions or similar activities, maybe combined with a training on soft skills, were mentioned as important by the consultants. Sharing the experience with difficult clients and finding out similar experience of others, having someone to suggest a possible solution or way out in similar situations was something that the consultants mentioned as necessary.

In any case it is important that the trainings are not one-time and very intense. Because very intense training like the one that was organized before the start of the pilot project is hard to process, understand and memorize.

4.5 Communication of the Pilot Project

The Pilot project was communicated primary via internet, using the resources of the project, Ministry of Justice, Legal Aid Administration and municipalities where the consultations took place. Press releases were also prepared and sent out at the beginning of the Pilot project and before the end of it.

The launch of the Pilot Project was very well reflected in the media, including also printed media in Russian language which caused some trouble for the consultants, because Russian speaking minority is rather active in protecting their rights and the number of Russian speaking people calling the consultants raised rapidly. Several consultants were not prepared to this, which caused dissatisfaction, stress and even willingness to withdraw from the Project on their side. Yet as a result of several clarifying and supportive conversations the situation was settled.

After the initial rush the communication was slowed down in fear of not overwhelming the consultants too much and not losing them. Which lead to a decrease in the numbers of consultations by the second half of the Pilot project time.

In addition to press releases and Facebook posts, separate posters and fliers were prepared and delivered to each place of consultations to be placed in libraries, social centres, shops and other places full of people. This again caused some trouble because

of the wording. The consultants thought that the word “legal” is misleading since they are not lawyers. Several clients had left disappointed for this reason.

Yet most probably these troubles would not be as conspicuous in a constant primary legal aid system where the main goal would be for all people to know that the service exists and is available.

A communication specialist and a graphic designer were attracted to the project for specific tasks like creating visual identity of the Pilot Project, posters, Facebook page, concepts, communication with media public relations specialists of the municipalities and similar. The Facebook page of the Pilot project was maintained.

A separate telephone number was devoted to make appointments and inquiries about the Pilot Project. But this time it was not very active since the telephone numbers of the consultants were also communicated in each of the places.

The issues discussed during these phone calls were very different, starting from general inquiries regarding the Pilot Project and its terms, followed by making appointments to meet with the consultants, including also talking about the problems of the people, inquiries on how to find the premises of the pilot project and giving feedback on the consultation received.

Russian language was very often used in the telephone conversations and also in face-to-face consultations, without a real possibility to switch to Latvian, since the client did not have sufficient skills. This caused problems to the consultant who did not speak Russian.

Also, a separate email address was used for the inquiries regarding the project. But it was not used very much – only on average 10 emails per week were received, also more in the beginning and less in the end of the Pilot project. The issues discussed in the emails were similar than in telephone conversations, while the language used in the emails was mainly Latvian.

A Facebook page of the Project was created and turned out to be a success, since many people indicated in their reviews that they found out about the existence of the Pilot Project from Facebook. Several messages were received and answered by the Pilot Project staff via Facebook Messenger.

By the end of the Pilot Project the Facebook page had 814 individual page likes and 950 followers. 25 posts were posted during the course of the Pilot Project. The posts had quite a big reach, some examples:

| No. | Post | Post Impressions | Post reach | Engagement |
|-----|--|------------------|------------|------------|
| 1. | Opening post informing about the launch of the Pilot project | 10 692 | 9 410 | 535 |
| 2. | Information about consultations in Liepāja | 4 941 | 4 283 | 195 |

| | | | | |
|----|--|-------|-------|-----|
| 3. | Information about consultations in Mālpils | 134 | 113 | 6 |
| 4. | Information about consultations in Riga | 570 | 488 | 33 |
| 5. | Information about closing of the pilot project | 1 894 | 1 593 | 254 |

The posts were not boosted during the course of the Pilot Project, therefore there is quite a lot of space left to reach even more people if necessary.

The Facebook page will be left active and publicly available for the readers of this report until the end of February 2024 (<https://www.facebook.com/Bezmaksasjuridiskapalidziba/>). After the end of February 2024, it will be hidden but not deleted for another year in order to relaunch it if necessary for the continuation of the project. Also taking over of the page by the Legal Aid Administration (now Court Administration) of Latvia or the Ministry of Justice would be recommended.

4.6 Premises of the Pilot Project

The consultants were offered to give consultations either in their places of work or in other premises provided by the Project coordinators. Most of the consultants decided to use their work premises – premises of the social service or legal clinic.

Similar visual identity of the premises was ensured by the posters of the Pilot project, but otherwise the clients were not separated from the usual clients of each of the consultants.

For a permanent service it would be advisable to devote to consultations special premises not associated with social services but still widely available to public. Most likely - municipal customer service centres.

In all places of consultations, a separate and isolated room was available for ensuring the confidentiality of the consultations. In all premises also a computer with internet and was available.

4.7 Closing event

After the end of the Pilot project a closing event was organized to discuss the results of the pilot project and the impressions of the consultants.

Since the event was organized in a festive mood right before Christmas, only good words were said about experience in the Project.

Yet all the consultants stressed that the task of providing primary legal aid cannot be assigned to social workers as addition to their everyday work. At the same time many

of them admitted that primary consultations are already part of their work with their clients. The Pilot project just made the client base wider and the range of questions more diverse.

More thoroughly the views of the consultants were analyzed in 4.3. and 4.4. of this report.

Pictures from the closing event are available here: <https://failiem.lv/u/v3h9cnma4d>

5 Numeric analysis of the Pilot Project

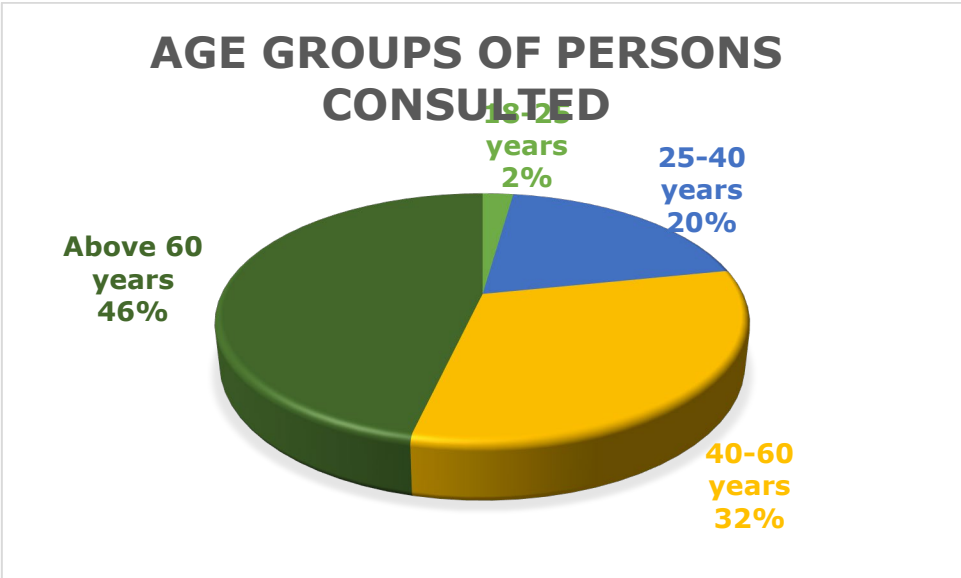
During the 10 weeks of the Pilot Project according to the case registers handed in by the consultants, consultations were provided to 208 people, divided as follows:

| | Week1 | Week2 | Week3 | Week4 | Week5 | Week6 | Week7 | Week8 | Week9 | Week10 | Total |
|--------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|----------|----------|----------|------------|
| Riga | 11 | 14 | 9 | 4 | 4 | 7 | 5 | 1 | 2 | 5 | 62 |
| Liepāja | 0 | 6 | 5 | 7 | 5 | 3 | 3 | 3 | 2 | 1 | 35 |
| Madona | 5 | 5 | 4 | 2 | 4 | 6 | 3 | 0 | 2 | 1 | 32 |
| Sigulda | 5 | 3 | 6 | 5 | 1 | 2 | 2 | 2 | 1 | 0 | 27 |
| Ogre | 3 | 1 | 3 | 6 | 6 | 0 | 0 | 0 | 0 | 0 | 19 |
| Kuldīga | 3 | 0 | 3 | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 9 |
| Auce | 0 | 0 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 4 |
| Mālpils | 1 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 |
| Telephone | 6 | 4 | 1 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 16 |
| Total | 34 | 33 | 37 | 30 | 20 | 18 | 13 | 7 | 9 | 7 | 208 |

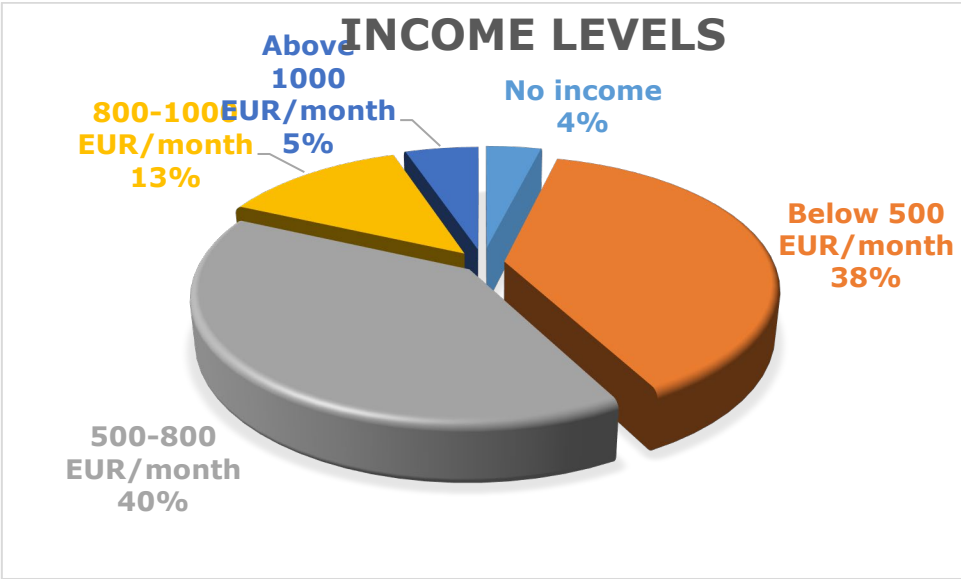
Due to the fact that the consultants were very busy with their everyday tasks and there was no legal commitment from their side, it is possible that not all the cases were registered and not all case registers were sent to the coordinators of the Pilot project, despite ongoing and repeated reminders to do so. According to the online appointment calendars approximately 250 clients were appointed to consultations, but it is also possible that the rest of the appointed people simply did not come, as this is also a significant problem regarding all kinds of appointments in Latvia.

Further numbers often do not represent all the consulted persons, because not everybody was ready to answer all the questions of the case registers and there were also some people who refused to sign the data processing consents which is why information about them was not filled in the case registers (only the part depicting the problem of the person was filled in).

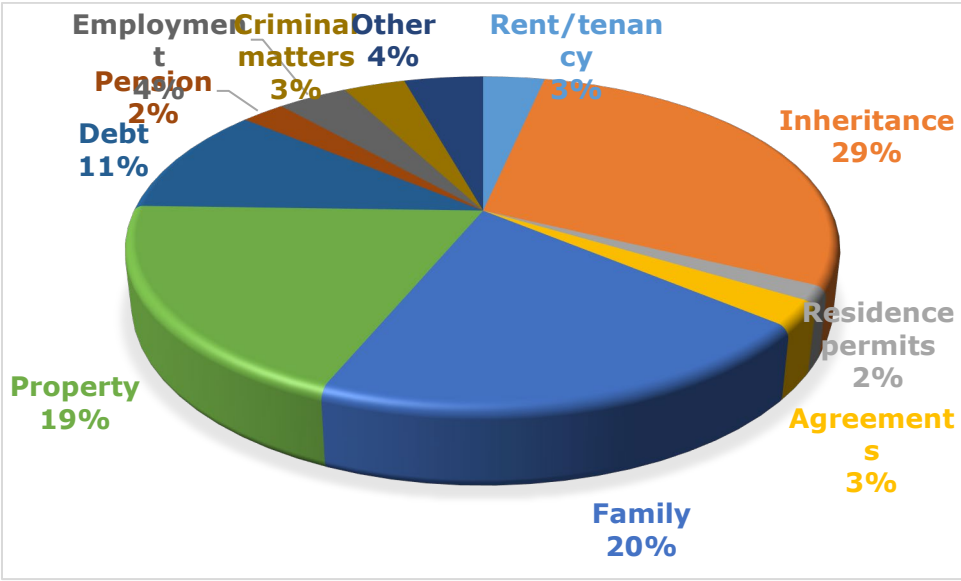
In general, 138 women and 56 men in the following age groups have received legal consultations:



Persons with following income level have received consultations:



The consultations provided were related to the following topics:



The case registers show also some very interesting and at the same time complex issues, to which in theory one simple answer (a roadmap) would be possible but in practice even an experienced lawyer would have to give this question a second thought. For example: *“A person has given his apartment as a gift to a relative under the condition that he will be able to live in the apartment for the rest of his life. Three years ago, the recipient of the gift died unexpectedly, no one has applied for the inheritance. What should the person do, he now lives in an apartment that no one owns?”*.

Also, it can be seen from the case registers that several people in need for secondary legal aid have been advised to receive a “lawyer’s consultation”. Thus, at the emotional level the received consultation is being placed somewhere below the “lawyer’s consultation”, which is often not true, since even a lawyer would not have solved the situation in one consultation. For example, a matter regarding inheritance, which has not been even started for more than 10 years.

Also, some not entirely precise answers could be indicated from the case registers. For example, a person inquiring about a possibility to divide a jointly owned plot of land was advised to go to a notary. Although a notary might prepare an agreement regarding division of property, it is also important to find out whether such division is allowed by the planning regulations of the relevant municipality. Another questionable suggestion was to reduce client’s income in order to obtain certain status.

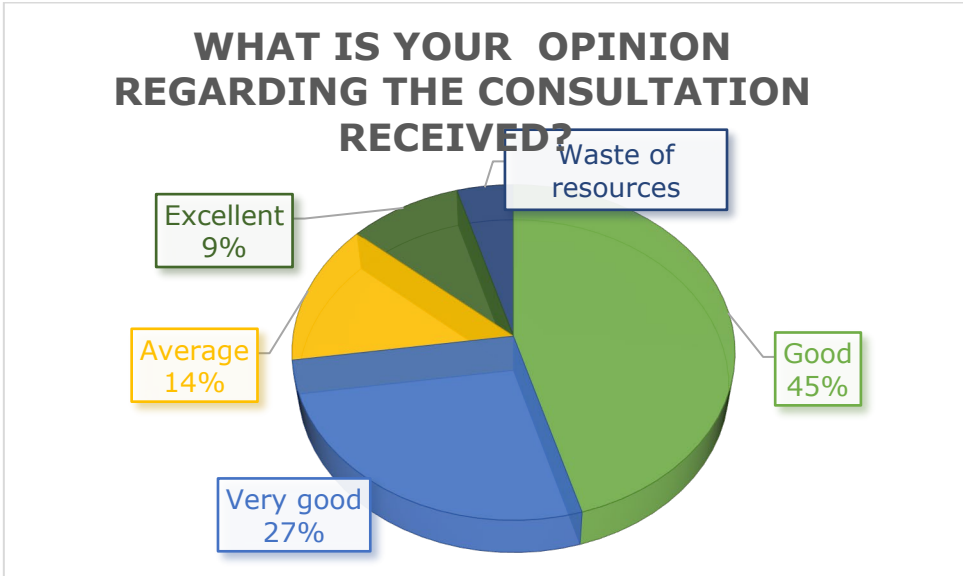
Although mostly the answers to questions regarding inheritance issues might be a referral to a public notary, exceptions were also identified. For example, in one case the client said that the notary had sent him to write an inheritance agreement and return with the text. The client was looking for advice on how to do it. Also, some confusing questions were identified. For example, a person explained that a notary

had refused to prepare a request for registration of a property in the land register saying, that it is not his / her territory. Although the territories of notaries are divided, they are not prevented to prepare the mentioned documents disregarding the territory. Therefore, this story would require further investigation in order to find out more details. In a permanent system there should be a mechanism for similar alleged violations by institutions or officials.

6 Numeric analysis of the client satisfaction questionnaire

After the Pilot Project all persons who had given their consent received either a text message or an email asking to fill in a client satisfaction questionnaire online. In total 180 messages were sent by the project coordinator.

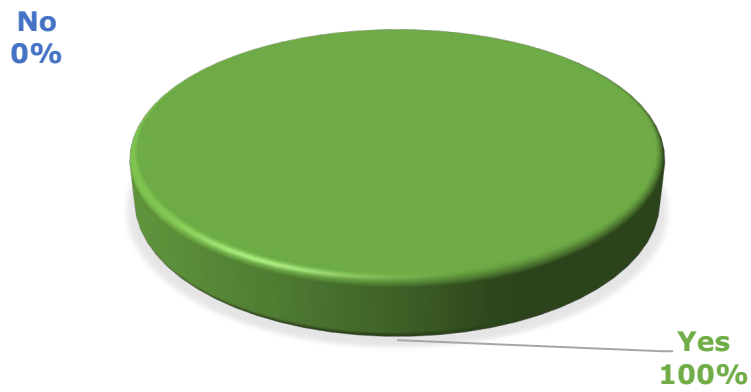
By January 17, 2024 only 22 responses have been received. They are described below.



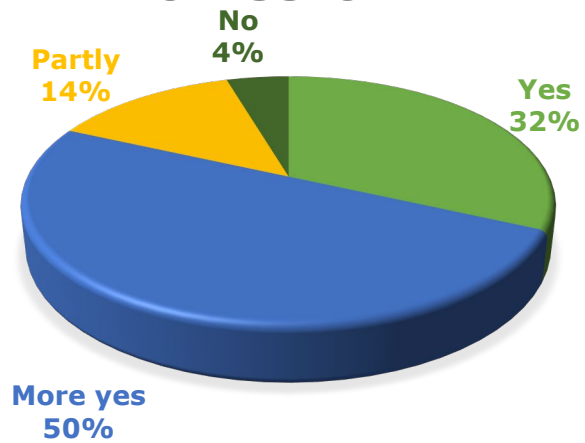
WAS IT EASY TO ACCESS THE PLACE OF CONSULTATIONS?



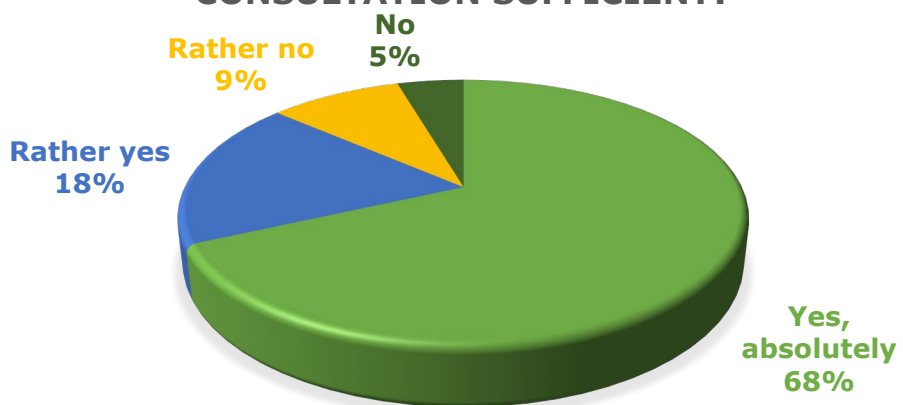
WERE THE OPENING HOURS OPTIMAL?



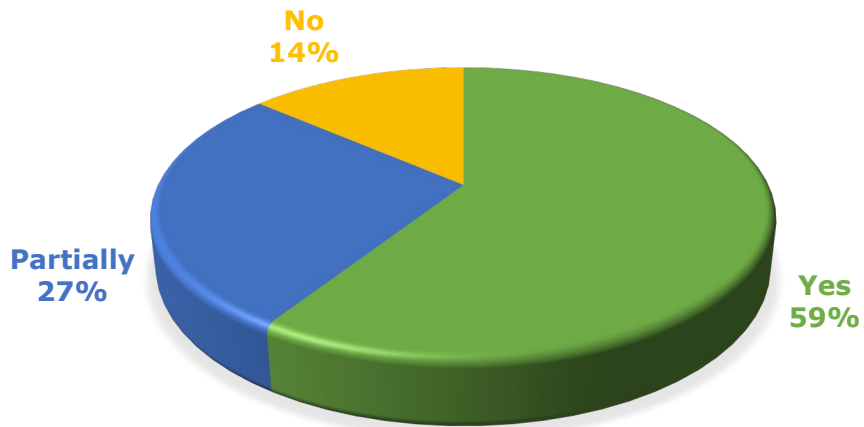
WAS THE CONSULTATION PROFESSIONAL?



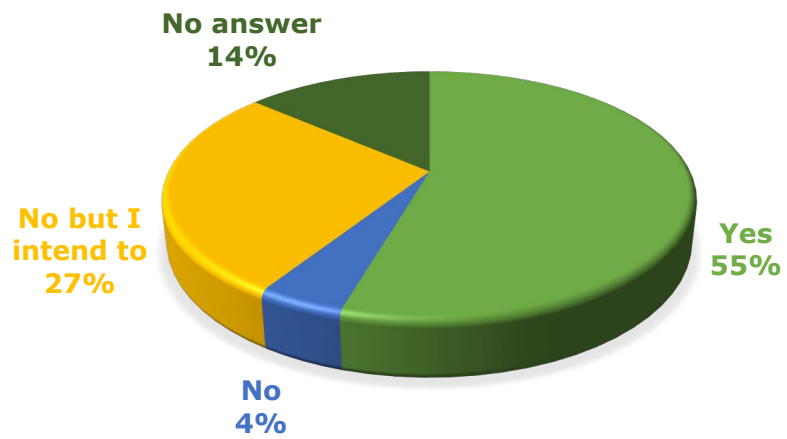
WAS THE TIME DEVOTED TO THE CONSULTATION SUFFICIENT?



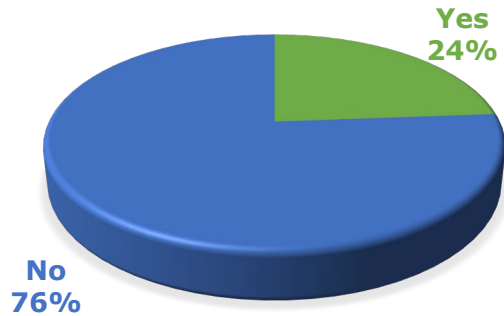
WAS YOUR QUESTION ANSWERED?



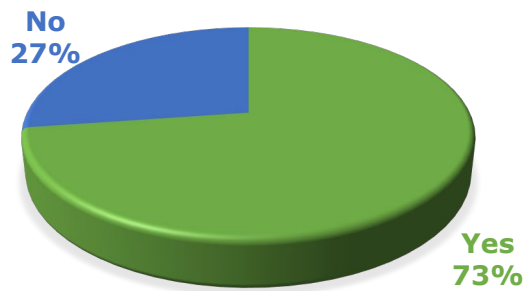
HAVE YOU ACTED ACCORDING TO THE ADVICE RECEIVED?



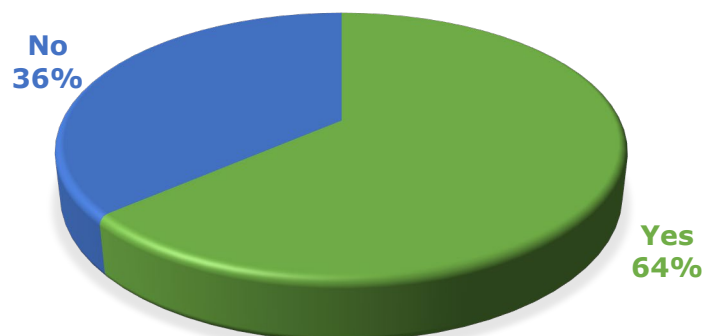
DO YOU FEEL THE NEED TO CONSULT FURTHER ON THE PARTICULAR ISSUE?



WOULD YOU USE THIS SERVICE AGAIN FOR ANOTHER LEGAL ISSUE IN YOUR LIFE?



DO YOU NEED A DEEPER LEGAL HELP EXCEEDING ONE CONSULTATION?



7 Recommendations

1. Entrusting specialists who are not lawyers with the task of providing primary legal aid is possible but is also complicated both – for the consultants and for their clients. The consultants often do not have enough knowledge, therefore feel stressed and unsafe, while the clients expect to receive a lawyer's advice and therefore feel disappointed about not receiving one.
2. It is therefore recommended to keep the tasks of social workers at their existing level, with the Law on Administrative procedure requiring them to consult their clients according to their knowledge and skills.
3. Additional training might and should be offered to social services via the Municipal training centre to support them and build their knowledge so that they are better equipped to serve the people in their places of work.
4. In addition, a system might be introduced where the existing legal aid providers travel to municipalities one day per month (or according to the necessity, might be more often in Riga) and provide primary legal aid to all persons on hybrid appointment and drop-in basis. In parallel, a possibility to receive consultations by telephone and / or email should be ensured.
5. The phone numbers of the consultants should not be handed out to the clients. If similar primary legal aid model will be applied in the future, it would be recommended to centralize the calls so that they can all be answered in a similar manner and the appointments can be distributed considering the workload of each individual consultant. Also, in such case the consultants will not be disturbed in their work by unpredictable number of calls.
6. It would be recommended to arrange a common appointment system visible to the consultants AND coordinators to be able to assess the workload of each of the consultants and rearrange the consultations if necessary.
7. In case primary legal aid is assigned to social workers, their everyday tasks must be rearranged accordingly so that they are not obliged to work above normal working hours.
8. If needs of the people are put first, the scope of the topics for consultations should not be limited. But to ensure the wellbeing of the consultants if they are not lawyers, certain limits might be set.
9. Quality assurance system and supervision are very important to ensure the quality of the service. Cases should be discussed and mistakes corrected by a supervisory body (Legal Aid Administration / Court Administration).
10. If irregularities in the state administration or violations by officials are discovered during the consultations, a mechanism for solving them is needed.

11. Primary legal aid should be part of a social work plan when applicable so that a mentos or social worker can assist in the implementation of received recommendations.