

## Better access to justice in Ukraine: Council of Europe and the Danish Government support capacity building for legal aid providers

31 training sessions on criminal procedure for the local centres and bureaux providing free primary legal aid took place in Ukraine in autumn 2017 and involved more than 600 participants covering the whole country. The trainings were held both in large cities – Kyiv, Lviv, Odessa – and in small towns, such as Lubny or Bila Tserkva. This capacity-building initiative was organised with the assistance of the Council of Europe Project “Continued support to the criminal justice reform in Ukraine”, funded by the Government of Denmark and became a logical continuation of the joint long-standing support of the Council of Europe and Denmark to the free legal aid system development in Ukraine.<sup>1</sup>



The aim of the trainings was to ensure the access to quality legal assistance as part of the access to justice.

*How to fill in a crime report? What are the rights and duties of a victim, a witness or a suspect? Who is entitled to a state-paid attorney? Who can be considered to belong to a vulnerable category?* These questions and much more were answered during the trainings and in the Handbook that was prepared for the participants and that is also available online for everyone.

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<sup>1</sup> More about the Project available at: [www.coe.int/web/criminal-justice-reform](http://www.coe.int/web/criminal-justice-reform)

## Serving more and more people: achievements and challenges

The right to free legal aid (FLA) in Ukraine is guaranteed by the Constitution. According to the Law of Ukraine “On Free Legal Aid” of 2011, there are two types of FLA that can be provided: primary and secondary legal aid.<sup>2</sup>

Before 2011 institutionalised state-funded free legal aid did not even exist. Nowadays it has already become an integral component of the Ukrainian legal system and it is also one of the most rapidly developing state services.

The scope of the free legal aid has expanded significantly since 2012. For instance, throughout 2012-2014, the right to free secondary legal aid has been gradually granted to all detained, arrested, and, to a large extent, to other accused persons, as well as to some categories of persons convicted to imprisonment or restriction of liberty. The list of other vulnerable categories has also been extended in 2012-2017 to cover low-income persons, persons with disabilities, orphans, internally displaced persons, persons seeking to receive this status, as well as persons seeking to receive the status of combat veterans, victims of domestic violence and so on.

Without doubt the free legal aid system in Ukraine strengthened institutionally in a remarkable way. The establishment of the Coordination Centre for Legal Aid Provision under the Ministry of Justice in June 2012 was followed by opening of 23 regional legal aid centres for the secondary legal aid provision in the regional cities and the city of Kyiv. Starting June 2015, 96 local legal aid centres were added to the network, while in 2016 the access to legal aid was afforded to an even larger audience, upon opening 432 bureaux of **primary legal aid** in all district centres of Ukraine, smaller towns and villages. In other words, **more and more people enjoyed the possibility to have access to free legal aid services and the number of people making use of these services has increased significantly, from 2 136 in 2012 to almost 880 000 in 2017**. Statistics show that after the opening of local legal aid centres, **the number of applications for a year of work has increased four times**.<sup>3</sup>

For example, Vinnytsia Legal Aid Centre reported 3008 applications in the third quarter of 2017, which is four times more than during the same period last year. The Director of the Vinnytsia Secondary Legal Aid Centre says: *The number of applications is growing rapidly. We did not expect such an increase in the number of applicants for the free primary legal assistance at the local centre, but every day we meet people at the centre's doorstep who are asking for legal advice in drafting legal documents associated with criminal matters.*

Chief Specialist of the Department of legal information and consultations in Lubny Legal Aid Centre, in Central Ukraine, agrees that the number of applications grows fast, including those related to criminal procedure, noting that *“most of the persons asking for assistance in criminal matters are victims who want to get advice on how to report a crime and what happens after.”*

As an immediate effect, the increase in the demand to deal with criminal cases led to the need to train the staff of the primary legal aid centres that are the first point of contact for free legal aid clients.

## The difference legal aid makes in people's life

The reality shows people need help with criminal cases before they get to the stage when they are entitled to an attorney. This is why the work of the primary legal aid centres is extremely important even if sometimes it is just about explaining to people how the process evolves.

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<sup>2</sup> **Primary legal aid** is guaranteed to any person under the jurisdiction of Ukraine and includes the following types of legal services: provision of legal information, consultations and explanations on legal issues, drafting legal documents, complaints, assistance in ensuring the person's right to secondary legal aid. **Secondary legal aid** is available to certain vulnerable categories and involves defense, legal representation in courts and preparation of procedural documents.

<sup>3</sup> An overview of the system of free legal aid provision in Ukraine (issued in March 2017 within a framework of the Ukrainian-Canadian project "Affordable and quality legal assistance in Ukraine), pp. 40, 43.

The Director of the First Odessa Legal Aid Centre points out that most often people ask questions of varying nature, such as: *Why the investigators do not inform on the progress? How many times can I be asked about the same things? Should I get a medical examination to determine the severity of injuries and whether it can be solved six months after the event? etc.* In the same line of ideas, the Deputy Chief of the Department of representation in the Second Odessa Legal Aid Centre confirms the need of people to receive on going counselling and support while they are engaged in a criminal proceeding: *People that received free legal aid often recommend their friends to contact us in case of violation of their rights, especially if they have a reason to believe that they have suffered from a crime. Because of the waiting time with the criminal procedure, sometimes people experience doubts and they constantly contact us to check the status of their cases. We explain to them the procedural time limits, principles and rules of functioning of law enforcement and judicial authorities, rights and duties of the officials.*

For some people this is the only way they can actually protect their rights. The clients themselves speak about the importance of professional free primary legal aid in addressing problems associated with a criminal proceeding.

Lyudmyla came to Odessa to help her daughter, while the girl was about to start her master degree. Lyudmyla quit her job as a tutor of math and Ukrainian language and focused on her daughter who was both working and preparing for her exams. On her daughter's birthday she went out to buy her a computer as a gift, stepped onto the crosswalk and the next thing she knew, she woke up in a hospital. Someone told her she had been hit by a car. Lyudmyla confesses: *If I hadn't been constantly supported by the free legal aid centre specialists, I don't know what would have happened to me. I wouldn't have had the strength to fight for my rights or to resist the pressure from the driver and his relatives. I handled it all only because the free legal aid system managed my case, they advised me what to do in any situation, explained what to expect and helped to compile all necessary documents.*

## The need of qualitative training and skills development

The important aspect of the primary legal aid is to provide access to the secondary aid for all who have the right to it. Therefore the tasks for employees of local centres and bureaux are to understand the situation, to explain exactly what legal services a client can get and how to do that. To accomplish these tasks they have to understand very well the difference between primary and secondary legal aid under various circumstances. They should also be skilled at identifying various categories of people having a different scope of entitlement to legal aid and to be able to advise a client on the basis of all these issues.



*It is important to have extensive knowledge in the field of criminal proceedings in order to be able to make a reasonable forecast about whether a person may be recognised as a victim in criminal proceedings, to clarify the law and the consequences of filing a report on a criminal offense, and last but not least, to help draft such a report correctly, explains the Deputy Chief of the Department of representation in the Second Odessa Legal Aid Centre. And this is where the trainings become so valuable. The employees of the local legal aid centres, who are not attorneys, improve their knowledge and skills on how to deal with all these issues and are taught the nuances of dealing with specific types of criminal offences.*

However, the potential of primary legal aid is not yet fully realised, as there appears to be yet un-revealed scope of some problems, such as domestic violence, where the role of the centres may be critical. Director of the Lubny Legal Aid Centre sums up: *Victims of domestic violence are not frequent visitors to the legal aid centres, but each case shows that we have potentially a whole layer of unresolved problems. First reason for rare references is the fact that a criminal justice system is configured to reconcile a victim and an offender because conflicts concerning family relationships and acts of violence usually occur without witnesses. Secondly, the victims, mostly women, have nowhere to escape from the abuser who lives in the same house. Most of the times they prefer to avoid public conflict in order not to make the situation worse.*

On that account, one of the issues discussed during the training was the provision of primary legal aid in cases of domestic violence. Everyone involved in this type of work reiterates the necessity of having the right tools and knowledge to cover situations related to all possible criminal offences, including the Deputy Head of Lokhvytsia Legal Aid Bureau in Poltava region who emphasises: *Dissemination of knowledge about domestic violence among the employees of the local legal aid centres and bureaus is very important to determine the nature and regularities of this phenomenon. Women come to centre for help because they feel blocked in a dead end.*

The interviews with the legal aid centres' employees, the testimonials received from the citizens and the statistical data clearly demonstrate the important role played by the legal aid system in facilitating better access to justice for people in Ukraine. This data equally demonstrates how crucial further development of the system is for addressing needs and meeting expectations of the population. It's also clear that better training for legal aid staff, including that supported by the Council of Europe and the Government of Denmark, has played an important role in the successful growth of the system, the quality of the service and the increased level of trust by the population. Undoubtedly, strengthening capacities of the legal aid system remains among the priorities for the Council of Europe. Support and cooperation will be continued to improve quality and further expand access to legal aid in Ukraine.