

Free Civil Legal Aid and Assistance for Vulnerable Groups in the Russian Federation

Promoting access to justice through free legal aid

Access to justice is a fundamental element of the rule of law and democracy. It involves an individual's ability to protect their rights in conformity with human rights standards, and incorporates a number of fundamental rights such as the right to a fair trial. This fundamental right is protected by the Council of Europe's European Convention on Human Rights (ECHR) in Article 6. It encompasses the right of access to the courts, to fair proceedings and to proceedings within a reasonable time. It also provides a right to self-representation or to be advised, defended and represented. It is meant to be effective for all citizens irrespective of their economic situation.

In that regard, the Council of Europe recommends that Member States should take all necessary measures to ensure that no economic obstacle can prevent fair legal proceedings, in particular for litigants in an economically weak situation. Measures can involve, inter alia, the setting up of an appropriate system of free legal aid.

By allowing public access to legal assistance, legal aid promotes citizens' awareness, understanding and better enforcement of their rights. It may also support the efficient administration of justice by facilitating litigants' representation and so reducing the needs for assistance from the court.

Background of the project

The Russian Federation has initiated measures to introduce free civil legal aid since 2006. Initial research and trial tests led to the adoption on 21 November 2011 of the Federal Law No. 324-FZ "On Free Legal Aid in the Russian Federation", which has introduced a state-funded system of legal services for *civil* justice that can be available to specific groups of population in the Russian Federation.

The Federal Law guarantees a right to free and qualified legal services for categories of individuals meeting certain social criteria. These categories include in particular: women and men on low income, people with disabilities or mental illness, persons without legal capacity and their guardians, and children in institutional care and juvenile protection systems.

Cases eligible for free civil legal aid can cover issues related to land and property law and housing accommodation, consumer protection with respect to the provision of public utility services, social support measures and various types of benefits, alimony and custody issues, legal incapacity, involuntary psychiatric hospitalisation, rehabilitation of citizens who were victims of political repressions, disability assessments as well as extra-judicial appeal of acts by government authorities, local government authorities and officials.

The Federal Law is general in its content and devolves to the regions the power to develop their own legislation and create tailored legal aid schemes.

Regional authorities are first entitled to extend the list of social categories and possible cases eligible for free legal aid in compliance with the Law. They are also responsible for defining the organisation of their

legal aid scheme in compliance with the possible institutional arrangements that the Law allows. These arrangements comprise a state-led system of legal service provision through public legal bureaux ('gosityurbureaux'), local authorities and lawyers in regions, as well as a complementary non-state system mobilising legal aid clinics in universities and non-governmental voluntary centres.

The Federal Law also includes an important public awareness raising component and supports the dissemination of information on free civil legal aid supply for both accessibility and public service monitoring purposes.

Although the Law entered into force on 15 January 2012, there is a need to improve, both in quantity and quality, the effectiveness of its implementation across the country and increase the take-up of legal services by the target populations. It also implies enabling the proper monitoring and quality control of this new public service through statistical overview as well as feedback mechanisms from the regions to the federal level. Appropriate legal aid scheme standards have to be set and disseminated in order to support the country-wide implementation of the new free civil legal aid system.

Objective of the project

Meeting this need requires developing a methodological and organisational approach that will help regions find their best possible way to implement the Federal Law, taking into account examples of good practice and local needs and opportunities.

To that end the Council of Europe in co-operation with the Ministry of Justice, has launched a 2 year project on "Free Legal Aid and Assistance for Vulnerable Groups". The project seeks to develop tools and methods that will enable regions to define their best possible model of legal aid provision - locally tailored to the needs and opportunities of the target populations.

The project aims to ensure that:

- Vulnerable categories of citizens have better access to legal services and that their civil law rights are better protected;
- Publicly-funded legal services and other forms of free legal advice and assistance are targeted effectively and; as a result, the take-up of legal services by vulnerable categories of citizens to protect their civil law rights is increased and generalised, contributing to strengthened indicators in the justice system and the rule of law.

Outline of the project

The project includes three stages.

Stage 1:

The project will first develop a legal aid supply and demand analytical model that will build upon comparative analyses of legal aid schemes in a selection of Council of Europe Member States and methodological application to the Russian context. The model will support decision-makers in the Ministry of Justice and regional authorities to identify, in each specific regional context: (i) the needs of vulnerable categories of citizens for legal services, and the extent to which the free legal services set up by the Federal Law are actually meeting these needs, i.e. with possible gaps, obstacles and opportunities; (ii) the corresponding measures to bridge these gaps and better plan legal aid supply.

Stage 2:

The analytical supply and demand model will be applied in up to three pilot areas representing different regional contexts in the Russian Federation as well as different legal aid scheme experiments – whether state- or non-state system or both. These regional assessments will provide baseline information and indicators on legal aid supply and demand in each area. As such they will enable further monitoring and quality control of the use of this public service, as well as help define measures for improvement of local supply of free civil legal aid. Such measures may involve for instance: raising public awareness through adequate outreach mechanisms, building local capacity to deliver legal aid, improving practical access to legal aid suppliers, and fostering linkages between the target populations and the legal profession. Building upon these findings, the project will support the development and pilot implementation in these pilot areas of target measures for the improvement of the implementation of the Federal Law and increase of legal services take-up by the population.

Stage 3:

The results of the pilot implementation will be confirmed through evaluations and shared at a conference for the rolling out of lessons learnt and good practice to all other regions of the Russian Federation.

The project will be implemented under the strategic guidance of a Project Advisory Group gathering representatives from the Ministry of Justice, the Council of Europe and international and national experts in legal aid and access to justice.

The project is funded by a Voluntary Contribution from the Grand Duchy of Luxemburg and implemented by the Council of Europe in co-operation with the Ministry of Justice of the Russian Federation. It will also involve such stakeholders as the Russian judiciary; regional and local authorities responsible for the implementation of the Federal Law, public legal bureaux; and associations of lawyers, firms as well as non-governmental and non-profit organisations providing legal services under the Federal Law.

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