



Merja Muilu

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1. LEGAL AID IN FINLAND

Legal aid is governed by the Legal Aid Act, the Act on the State Legal Aid Offices, and three Government decrees: one on legal aid, one on legal aid fee criteria and one on the State Legal Aid Offices.

Links:

<http://finlex.fi/fi/laki/kaannokset/2002/en20020257.pdf> (Legal Aid Act)

<http://finlex.fi/fi/laki/kaannokset/2002/en20020388.pdf> (Decree on Legal Aid)

<http://finlex.fi/fi/laki/kaannokset/2002/en20020389.pdf> (Decree on Legal Aid Fee Criteria)

Legal aid is administered by state legal aid offices and by decisions of the courts. Legal aid is granted at the state legal aid offices. If the legal aid office does not accept the application and deems that there is no reason for a rectification, an application for legal aid can be submitted to the court for a hearing. If the court does not grant legal aid, it is possible to appeal against the decision.

The legal aid office has the right to contact the authorities and insurance companies so as to check the information that the applicant has provided on his or her financial circumstances. Also banks are under the obligation to provide the legal aid office with the assistance it needs, if there is a reason to doubt the reliability of the information supplied by the applicant. If bank information is to be requested, the applicant must be notified of the request in advance. Legal aid insurance has priority over legal aid.

A recipient of legal aid must inform the legal aid office of changes in his or her circumstances, including income, expenses or wealth. If the financial circumstances of a recipient of legal aid change, the legal aid office may amend the legal aid decision in order to take the change into account. And again, as in any decision the legal aid office makes concerning legal aid, the decision may be submitted to the court for a hearing.

As of the beginning of 2013, individual legal aid services are provided for persons applying for international protection only under the Legal Aid Act. Before the amendment, asylum seekers were provided with legal aid both as a service pursuant to the Legal Aid Act and as a non-statutory service provided by the reception centres and funded with a budget appropriation. The purpose of this amendment was to remove overlapping services provided by different actors.

The funding of legal aid comes from the budget via the Ministry of Justice.

Providers of legal aid

Legal aid is provided by public legal aid attorneys and by private attorneys. A public legal aid attorney is a lawyer working at a state legal aid office. Private attorneys are advocates or other private attorneys. An advocate is a lawyer who is a member of the Finnish Bar Association and whose activities are supervised by the Bar Association and the Chancellor of Justice. Starting January 1st 2014 all pri-

vate attorneys who are not advocates and who deal with legal aid cases have to be licensed attorneys. A licensed attorney is a lawyer who has been granted a permit by the Licensed Attorneys Board to act as an attorney. The activities of public legal aid attorneys and licensed attorneys are supervised in the same manner as those of advocates. Half of the public legal aid attorneys are members of the Bar.

In most cases, the applicant's first contact is the lawyer of his or her choice, who then draws up the application for legal aid. The recipient of legal aid has a choice of attorney in any court case.

The client may choose whether he or she wishes to be assisted in judicial proceedings by a public legal aid attorney working at the state legal aid office, an advocate, or a licensed attorney.

In matters that are not to be brought before a court (e.g. advice or drawing up of a document, such as an estate inventory or an agreed distribution of matrimonial property), legal aid is given only by public legal aid attorneys. In these situations, the recipient of legal aid cannot choose a private attorney, unless there is a special reason for it. The reason may be that the legal aid office has a conflict of interest in the matter, is too busy to take the client or the matter requires special knowledge that the public legal aid attorneys of the office do not have.

State Legal Aid Offices

State legal aid offices have two tasks: to provide legal aid and to grant it.

With a population of about 5.4 million and area of about 340,000 km², Finland has 34 legal aid offices, which are located mainly in the vicinity of the district courts. The legal aid offices have 165 locations, of which around half are service points where clients are met as required.

The legal aid offices are small: they have between 4 and 30 employees. The total number of employees is just 391, of which half are lawyers (public legal aid attorneys) and the other half office staff. Applicants for legal aid may choose which legal aid office they wish to use.

The offices are divided into six legal aid districts. One regional Director of an Office is appointed a Director of a District for a maximum of five years. The Director of the District has administrative duties, including performance discussions, proposals for the use of branch offices and service points, and recommending the appointment of legal aid attorneys. He or she is also responsible for the regional development within the district.

The Ministry of Justice is responsible for the overall management and supervision of the legal aid offices.

Statistics

In 2012 expenditure on legal aid amounted to EUR 63.2 million. Of this sum EUR 22.1 million derived from the operations of legal aid offices and EUR 41.1 million from remunerations paid to private attorneys. With this sum approximately 77 000 legal aid cases were dealt with.

Private attorneys

In 2012, private attorneys were paid a total of approx. EUR 41.1 million as fees and compensations in legal aid matters, which is around 11 per cent more than in the previous year. Around 76 per cent (81

in 2011) of the fees and compensations paid to the private attorneys were incurred in the district courts, around 18 per cent (19 in 2011) in the courts of appeal, and 6 per cent in other courts.

Criminal matters constitute the largest group, 81 (82) per cent of the cases. In cases considered in the district courts and courts of appeal, a private attorney was appointed for altogether 33,442 parties, which is 3,180 parties more than in the previous year.

Operational efficiency in the legal aid offices

Operational outlays 2008-2012

EFFICIENCY						
OUTLAYS 1000 €						
Legal Aid Offices	2008	2009	2010	2011	2012	Comp. To year 2011
Revenue						
<i>Services subject to a charge</i>	4 598	4 733	4 723	5 065	5 044	-0,4 %
Costs	26 792	27 691	27 659	27 215	27 146	-0,3 %
Total net outlays (1000 €)	22 194	22 958	22 936	22 150	22 102	-0,2 %
Main operational targets						
Cost-effectiveness						
(Outlays/completed case unit)	108	114	116	112	121	8,0 %
Productivity						
(completed case unit/ person)	457	456	475	485	467	-3,7 %

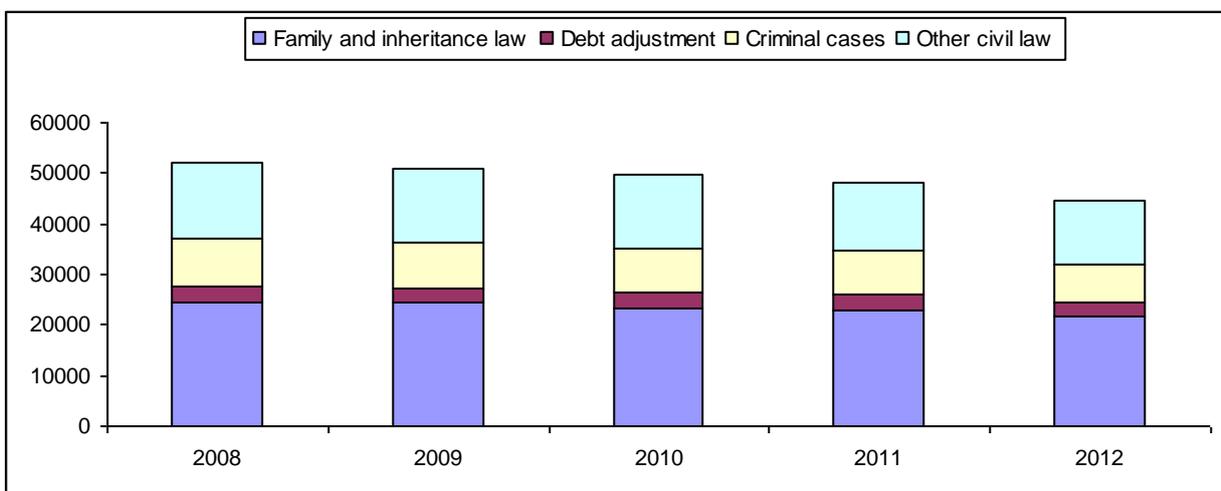
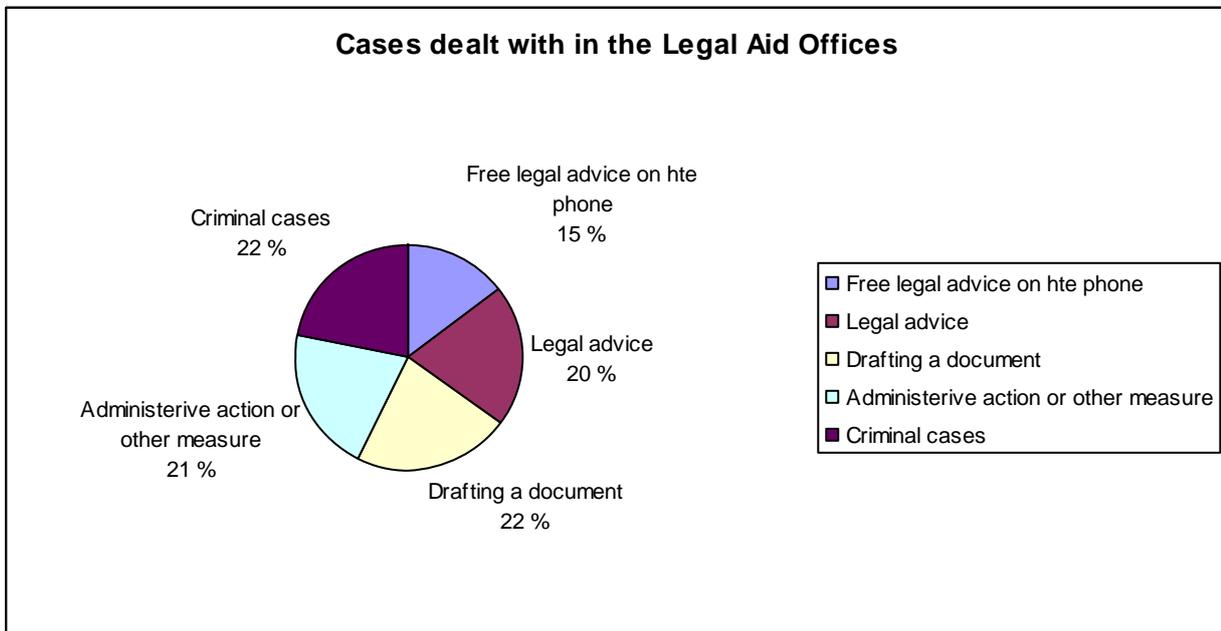
Outputs in the legal aid offices

In 2012, the public legal aid offices received a total of 44,432 cases. All in all, 83 per cent of the cases dealt with by the legal aid offices pertained to civil law or administrative law. Of the civil law cases, 48 per cent concerned family and inheritance law, 7 per cent concerned debt adjustment for private individuals and 28 per cent concerned other civil law or administrative law matters. The share of criminal cases was 17 per cent of the total.

Incoming cases in the Legal Aid Offices

	2008	2009	2010	2011	2012
Family and inheritance law	24661	24413	23405	22931	21522
Debt adjustment	2932	2940	3029	2987	2906
Criminal cases	9343	8844	8785	8699	7389
Other civil law	15225	14706	14448	13642	12615
Together	52161	50903	49667	48259	44432

Of the 44,607 cases dealt with by the legal aid offices in 2012, 15 per cent were closed by free legal advice on the phone, 20 per cent were closed with legal advice being given, 22 per cent with a document being drafted, 22 per cent with court proceedings and the other 21 per cent either with administrative authority taking measures or by some other measure.



Outputs and quality control in the Legal Aid Offices, 2008-2012

OUTPUTS AND QUALITY CONTROL	2008	2009	2010	2011	2012	<i>Comp. To year 2011</i>
Cases						
<i>Legal Aid Offices</i>						
Incoming cases	52 161	50 903	49 667	48 259	44 432	-7,9 %
Cases carried over to the following year	16 228	15 637	16 416	16 744	17 228	2,9 %
Main operational targets						
<i>Legal Aid Offices</i>						
Closed cases	51 844	50 695	48 346	47 873	44 607	-6,8 %
Legal Aid decisions (units)	21 184	22 400	22 751	22 089	24 553	11,2 %
Queuing time (days)	11,5	12,2	12,9	13,1	14,0	6,9 %

2. QUALITY EVALUATION IN PUBLIC LEGAL AID

In April 2008, the Ministry of Justice appointed a committee for the development of quality assessment for public legal aid to determine the quality factors of public legal aid and to create a proposal for an evaluation system suitable for evaluating the quality of public legal aid. The committee included representatives from among public legal aid attorneys, advocates and district court judges.

The committee's aim was to define the quality factors of public legal aid, to present methods suitable for evaluating the quality of public legal aid, to assess the suitability of peer evaluation and client questionnaires for quality evaluation, to evaluate the effectiveness, efficiency and cost of different methods and to produce a proposal for an evaluation system that could be used to measure the quality of public legal aid and monitor its development.

Once the term of the committee for the development of quality assessment had ended, the Ministry of Justice appointed a working group to pilot the evaluation system for legal aid. The task of the working group was to organise pilot projects for the system in accordance with a piloting plan it had drawn up, to examine the needs to modify and develop the system based on the experiences gained during the pilot projects, as well as to make proposals on the further development of the system. Two pilot projects experimenting with the quality evaluation system were carried out during the term of the working group.

In its final report, the working group proposed that the quality of public legal aid be evaluated using three different methods: 1) self-evaluation of the attorney, 2) a client questionnaire, and 3) a questionnaire for the presiding judge of the court, the prosecutor and the attorney of the opposing party. The

working group was of the opinion that peer review should, at this stage, be omitted from the evaluation methods. The working group did, however, suggest that the use of peer review as a method for quality evaluation should be reconsidered at a later stage. According to the opinion of the working group, quality evaluation should be performed once a year in two legal aid districts at a time so that all the legal aid offices and all the lawyer's offices providing public legal aid services in the district would participate in the evaluation. In addition, the working group proposed that a special working group for the quality of public legal aid be set up to coordinate the quality-related work.

Why do we need a quality evaluation system?

A central feature in the results-based management system currently applied in state administration is holistic assessment of operations and finances. One of the key figures describing the work performed is effectiveness of operations. A central contributor to effectiveness is the quality of operations.

The quality of the operations in state legal aid offices has been evaluated through client questionnaires. Other focal areas have included ensuring the quality of operations by means such as increasing the provision of information and timely invoicing of legal aid. The availability of the service has been monitored through waiting times. Waiting time means the period of time that elapses from the point at which the client first contacts the office to make an appointment and an actual meeting with an attorney. In 2012, the average waiting time for the whole country was 14 days.

The ministries manage and confirm the performance targets of agencies in their administrative branch. In annual performance negotiations, the ministry and the agency agree on the operational goals and financial resources of the agency. Establishing operational quality targets for legal aid offices and evaluating their implementation fall within the results-based management of the Ministry of Justice.

However, results-based management can only assess the quality of the operations of state legal aid offices. State-funded legal aid is also provided by other service providers than public legal aid attorneys. In matters handled out of court, the attorney must, as a general rule, always be a public legal aid attorney. In cases processed through litigation, the applicant of legal aid may choose their representative more freely. The representative can be a public legal aid attorney from a legal aid office, an advocate or another lawyer. To gain an overview of the quality of public legal aid, it is important that the quality evaluation also cover advocates and other lawyers.

Public legal aid constitutes a service that is either partly or fully subsidized by the government; consequently, there needs to be a readiness to report on the effectiveness of the operations on a more detailed level than has been the case until now. The currently applied methods intended mainly to safeguard quality do not lend themselves to evaluation, development or monitoring the quality of legal aid.

The evaluation system was not created as a system for controlling the attorneys or as a sanction mechanism. The main task of the evaluation system is to provide a tool for monitoring and constant improvement of the quality of public legal aid and for the maintenance and development of the competence and professional ability of the attorneys. This is why there is no need to create new legislation concerning the evaluation system.

The quality evaluation system is aimed at evaluating the quality of all state-funded legal aid. This means that the evaluation of quality applies to matters handled under both the Legal Aid Act and the Criminal Procedure Act. The provider of legal aid can be a public legal aid attorney, an advocate

or other private lawyer. The heterogeneity of the area to be covered by the evaluation is likely to cause challenges in the creation of the evaluation system and to complicate future interpretation of results gained from the evaluation.

The functions and application of the quality evaluation system

A tool for monitoring the level of quality

Systematic evaluation enables national level reporting of the quality of public legal aid as well as the monitoring of its development. It is important to be able to demonstrate in state-level reporting that the quality of public legal aid is at an adequate level. The information is requested, among others, by the bodies deciding on the funding of legal aid. In addition to indicating positive quality development, the results of the evaluation naturally also provide the opportunity to detect possible weakening in the quality of legal aid activities in some of the areas of evaluation, which enables more attention to be focused on the matter.

The evaluation system is used to measure the quality of legal aid matters handled by public legal aid attorneys and private attorneys on a general level. Results gained from the evaluation are reported primarily on the national level. This level is considered sufficient for describing the quality. For the purposes of quality development, reporting results is also possible on the level of district court judicial districts, as the national level reporting is not sufficient for the development of quality.

No results will be reported on office level. The only exception to this is the peer evaluation, which requires attorney- and office-specific reporting in order to yield optimal benefits.

A tool for training and development of attorneys

Another important function of the evaluation system and the evaluation implemented by it is providing an instrument for the maintenance and development of the competence and professional ability of public legal aid attorneys and private attorneys.

The quality criteria of the evaluation system could function as policies promoting the quality of public legal aid. In addition, self-evaluation encourages the attorneys to think about their work and develop themselves further. The evaluation will provide a foundation for discussion on the quality of public legal aid. This is necessary, as discussion on the quality of public legal aid presumes a shared conception of what is understood as quality. Using the discussion carried out concerning quality criteria, it is possible to elicit best practices regarding a variety of issues as implemented by the attorneys and disseminate their application more broadly among attorneys.

Central aspects in efforts to promote quality consist of identifying targets for operational development and agreeing on development measures to be implemented. When analyzing the results of the evaluation, it is important to consider reasons for possible weaknesses detected in the quality of public legal aid and to explore the development measures required and their implementation. Results should be discussed in office meetings, appraisal interviews with attorneys and discussions between attorneys and their interest groups such as judges, prosecutors and other attorneys.

Analysis of the evaluation results may show that the reason for the deficiencies in quality may lie, for instance, in the fact that the attorneys' awareness of a certain quality criteria as a factor that contributes to overall quality is not at a sufficient level or the competence of attorneys is lacking in this area. The results of the evaluation should thus also be considered when planning training for attorneys.

3. LEGAL PROTECTION PROGRAMME

In order to shorten the total length of judicial proceedings and to guarantee the quality of legal protection, a legal protection programme has been drawn up in the Finnish Ministry of Justice for the years 2013–2025. The legal protection programme was drawn up by a broad-based advisory board. In addition to representatives of the Ministry of Justice, the advisory board consisted of representatives of the different court instances, the prosecutors, the enforcement service, The Finnish Bar Association, and the National Audit Office of Finland. The legal protection programme drawn up by the advisory board contains a wide range of proposals for the development of the courts, prosecutors, enforcement and legal aid.

According to the legal protection programme, the quality of advocacy and legal aid will be improved by making the supervision more effective. More effective supervision improves legal protection at the same time as it makes the consideration of matters in courts more effective. In addition, the coverage, allocation and costs of legal aid will be examined and adjusted to correspond to the factual legal protection needs. The administrative reform of the legal aid office network will also be continued, and the use of e-services and remote services will be made more extensive.

Coverage and structures

In the assessment of the coverage of legal aid, attention shall be paid to the geographical coverage as well as to the coverage in respect of different groups of parties and matters. The case law of the European Court of Human Rights concerning a person's right to public legal aid in pre-trial investigation must be taken into account in this assessment. The same applies to the case law of the Court of Justice of the European Union concerning a legal entity's right to legal aid. Furthermore, the grounds for receiving legal aid in different administrative judicial matters, including tax matters, must be assessed.

The objective is to decrease the number of legal aid offices from current 34 to 27 by the year 2015. Moreover, the need for a total reform of the organisational structure of the state legal aid offices will be examined. The consequences of the possible establishment of a single legal aid agency shall also be looked into.

The smaller number of legal aid offices has more and more often led to situations where the office is disqualified from handling a case, and this will happen ever more often in future. Journeys to other legal aid offices with qualified attorneys have become longer and longer. At the same time, the number of private attorneys is assessed to be decreasing in the sparsely populated areas. In situations with disqualification problems, the primary solution is to provide legal aid as remote service.

Procedures

The e-services of legal aid offices will be made more extensive by creating an electronic appointment system. Remote services will be used more extensively especially in situations where a legal aid office is disqualified from handling a case and where the realisation of the linguistic rights of a client so require. If a legal aid office cannot provide service in the mother tongue of the client or cannot accept a commission due to disqualification, the client may be provided legal aid as remote service from an-

other legal aid office or possibly from a Citizen's Office of the authorities. The electronic appointment system and the remote services make the customer service more effective and flexible.

Competence and personnel

In addition to exclusion from the proceedings, there is also a specific procedure in place to be applied in the supervision and direction of the attorneys. The courts monitor the appropriateness of the procedure also by way of active process management. As the fees of the public legal aid attorneys are paid from State funds, it is particularly justified to evaluate the quality of their work. It is possible, by virtue of the effective legislation, to reduce the attorney's fee or even to leave it altogether undetermined, if the quality of the work has not met the requirements. The courts shall, actively and justifiably, use this opportunity to make sure that the attorneys' work is of high quality. When it comes to the attorneys' fees, a possibility to determine fixed fees for simple cases will be examined. The level of fees must be kept high enough in all kinds of matters in order to ensure that skilled attorneys will continue to accept legal aid cases. High quality work by the attorneys helps to reduce costs.

Fees

The legal aid fee has been EUR 70 since 2008, and the last time the income limits for deductibles within legal aid were adjusted was also in 2008. In 89 percent of the legal aid cases handled by private attorneys the client receives legal aid for free, and in 11 per cent against a deductible. At the legal aid offices, the corresponding figures are 74 per cent (approx. 30,200 clients) for free and 26 per cent (approx. 10,500 clients) against a deductible. The aim is to cover a larger share of legal aid costs with payments from the clients. This requires that the system of fees and compensations be reviewed as a whole and possibly tied to the index fluctuations. In addition, attention shall be paid to the fact that the billing of the public legal aid attorneys shall fully correspond to the completed work amount and comply with the law. As the purpose of legal aid is to secure the low-income persons' right to legal protection, payments from the clients can only cover a very small share of the costs.

4. FOCUSED STUDY ON CLIENTELE AND CASES

National Research Institute of Legal Policy has performed study on legal aid in Finland focused on clientele and cases.

This research communication focuses on how the current public legal aid is targeted among people entitled to it, and what are the future needs and possibilities of legal aid. The research leans mainly to a register based approach. To support the quantitative data, a number of interviews with legal aid counsels and secretaries are also carried out.

The field of public legal aid services in Finland has undergone rapid structural changes in the past years. The number of public legal aid offices has dropped from over 60 to under 40 in a relatively short period, and more centralizing of offices is yet to come. Cutting down their number has not occurred without personnel cuts. The legal aid system has also launched some new innovations like telephone counselling, the electronic application process and legal counselling via video. These changes are one part of balancing the public sector's operation costs and putting the allowances in a more efficient use.

Three quarters of legal aid applications came from single-living people, and one fifth came from the married. The number of clients with different ethnic backgrounds has grown, which has made the work in legal aid offices more challenging. Generally, people are directed to legal aid offices by other authorities, through their friends/relatives or they have found the information on the internet.

The study shows that the number of cases in public legal aid offices has been decreasing in recent years, dropping from around 52,000 to less than 45,000 in five years. Over the past year, the number of cases has fallen in all legal aid precincts. Despite the sharp decrease, the structure of legal cases has not changed: family, inheritance and criminal matters still form the majority of all cases. Instead, the clientele has slightly changed. Around two thirds of all clients receive their legal aid free of charge, and their share has increased few percents since the mid-2000s. A little less than one third pays a partial compensation, and around every tenth client is subjected to pay the full price. Overall, the general reduction of legal aid cases can be pinpointed to clients who pay a partial deductible for their legal aid.

There are notable regional differences on how the legal aid is targeted. In sparsely populated areas, inheritance matters are more common as well as clients who pay deductible for the legal aid. In more urban areas cases regarding family law and criminal offenses are the most common ones, and, compared to rural areas, more clients receive the help free of charge.

Overall, the biggest regional worry is that centralizing moves legal aid services too far away from some people. The same areas which have seen their legal aid office move away often lack the services of private legal counsellors as well. Respectively, the problem in densely populated areas is that there are more customers than the legal aid offices can handle. The most robust sign of this are the lengthened customer waiting times to see the counsel.

The number of legal aid cases handled by the private attorneys has been pretty stable, but their share of all legal aid cases has slightly increased in recent years. This might refer to a situation where an increasing number of clients are directed to seek their publicly funded legal aid from the private sector. The majority of legal aid cases which private attorneys handle deal with criminal matters. Under the private assistance, it is more common that the client has his or her legal aid free of charge compared to the cases handled by the public legal aid counsellor.