

# **NATIONAL REPORT - LATVIA**

## **1) Introduction**

This report has been prepared by Mr. Agris Batalauskis (head of the Legal Aid Provision Division of the Legal Aid Administration of the Republic of Latvia) for the International Legal Aid Group (ILAG) conference which takes place in the Hague, Netherlands from 12<sup>th</sup> to 14<sup>th</sup> of June 2013.

## **2) Type of legal system**

It is largely civil, as opposed to a common, law system, based on epitomes in the German and French systems. The Latvian legal system is grounded on the principles laid out in the Constitution of the Republic of Latvia and safeguarded by the Constitutional Court of the Republic of Latvia.

## **3) Population**

The Republic of Latvia (Latvia) is country in the Baltic region of Northern Europe. It is bordered to the north by Estonia, to the south by Lithuania, to the east by Russia, and to the southeast by Belarus, and it shares a maritime border to the west with Sweden. With 2,070,371 inhabitants and a territory of 64,589 km<sup>2</sup> (24,938 sq mi) it is one of the least populous and least densely populated countries of the European Union.

## **4) GDP**

Latvia's GDP in 2012 was estimated EUR 26.80 billion, which places Latvia 107 in the world. In 2011 GDP was EUR 26.37 billion, and in 2010 GDP - EUR 25.01 billion.

## **5) Average Annual Salary**

Data compiled by the Central Statistical Bureau (CSB) show that in Latvia average monthly wages and salaries in 2012 reached LVL 481 (approx. EUR 680), but that the rate of increase has reduced, as compared to the previous year.

Rise in the wages and salaries in 2011 constituted 4.4 percent, moreover it was similar in both public and private sector – 4.7 percent and 4.6 percent, respectively; whereas in 2012 more notable increase was recorded in the public sector.

In 2012, wages and salaries in public sector grew by 4.5 percent (from EUR 697 to EUR 728), while in private sector they increased by 3.5 percent (from EUR 632 to EUR 655). Rise in the general government sector constituted 2.6 percent (from EUR 642 to EUR 659).

The average monthly net wages and salaries grew by 3.9 percent (from EUR 467 to EUR 485). The real increase of net wages and salaries, considering annual price rise of 2.3 percent, constituted 1.6 percent.<sup>1</sup>

## **6) Administration of Legal Aid**

In 2004 the Cabinet of Ministers of the Republic of Latvia took the first steps to establish a comprehensive legal aid system in Latvia by supporting the conception “The concept of the state-funded legal aid system in Latvia”. The conception stated that the existing legal aid system in Latvia must be reformed and expanded so that it would be in compliance with the Constitution of the Republic of Latvia and international human rights acts.

Cabinet of Ministers of the Republic of Latvia decided to support the development of the state ensured legal aid model ensuring that the legal aid in civil and administrative disputes would be provided by lawyers and advocates who have signed a legal aid provision contract with the state. The Cabinet of Ministers of the Republic of Latvia also supported legal aid provision criteria's – means and merit.

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<sup>1</sup> <http://balticexport.com/?lang=en&article=pern-videja-bruto-darba-samaksa-augusi-par-37-lidz-481-latam>

On June 1, 2005 the State Ensured Legal Aid Law came into force. 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. In addition, the State Ensured Legal Aid Law stipulated that a specific institution subordinated to the Ministry of Justice – Legal Aid Administration, shall be established until December 31, 2005. The Legal Aid Administration of the Republic of Latvia was founded on January 1, 2006.

The Legal Aid Administration performs its functions in accordance with the State Ensured Legal Aid Law, the Law “On State Compensation to Victims” and the Cabinet of Ministers Regulation Nr.869 of 15 November 2005 "Regulation of Legal Aid Administration". The Legal Aid Administration has two main functions:

- ensuring access to legal protection for the low-income and needy persons, and persons with a particular situation, property status and income levels considered appropriate for the state guaranteed legal aid;
- providing state compensation to victims of intentional crimes - severe or moderate bodily injury, death of a person, sexual offences, infection with the human immunodeficiency virus, hepatitis B or C and human trafficking.

To ensure implementation of the afore-mentioned functions, the Legal Aid Administration performs the following tasks:

- examines applications for request of state guaranteed legal aid and decides on granting or refusal to grant the state guaranteed legal aid;
- examines the state compensation claims and decides on paying or refusal to pay the state compensation;
- pays out legal assistance funds to legal aid providers;
- pays out the state compensations funds to the victims of intentional crimes;
- examines applications for receiving the rights to provide state guaranteed legal aid and signs legal aid agreements with legal aid providers;
- recovers state budget funds paid for provision of legal assistance and state compensations to the victims;
- maintains the state register (information system) both on the state guaranteed legal aid and the state compensation.

The Legal Aid Administration is located in the capital of the Republic of Latvia – Riga. There are no branches of the Legal Aid Administration in other areas of the country.

In accordance with the State Ensured Legal Aid Law the legal aid application forms and information regarding the completion of the forms can be received at the Legal Aid Administration or in the municipalities.

The municipalities participate in the state ensure legal aid scheme and every year the Legal Aid Administration organizes seminars for social workers and the staff of municipalities informing them about recent changes in the legal aid system est.

On July 1, 2009 the amendments in the State Ensured Legal Aid Law came into force, significantly restricting the scope of state ensured legal aid.

For example, it was laid down in the law, that the state would not grant legal aid in administrative cases, except in asylum cases and certain immigration cases. Therefore since July 1, 2009 state ensured legal aid can be provided in civil (also cross-border), some administrative disputes (to asylum seekers and third-country nationals staying illegally in Latvia) and in criminal cases.

As previously mentioned principle of contract between legal aid providers and Legal Aid Administration is incorporated in the Latvian state ensured legal aid model. The State Ensured Legal aid Law defines that a person can sign a legal aid contract with the Legal Aid Administration only if the person is:

- a sworn advocate;

- a sworn notary;
- a sworn bailiff;
- a natural person, who meets all the following requirements:
  - a) he or she has completed an accredited study programme in law (academic study programme in law or a second-level vocational study programme in law and a lawyer qualification),
  - b) he or she is fluent in Latvian language;
  - c) he or she is of good reputation;
  - d) he or she has obtained at least five years of work experience by working in any of the law profession.

A legal aid contract with the Legal Aid Administration can also be signed with:

- a state-recognized education institution which has been practicing an accredited study programme for not less than five years, as a result of completing of which a lawyer qualification is awarded and if a course or unit established for providing of legal aid is headed by a Doctor of Law;
- non-governmental institutions which meet the requirements laid down in the State Ensured Legal Aid law.

### **Legal aid in criminal proceedings**

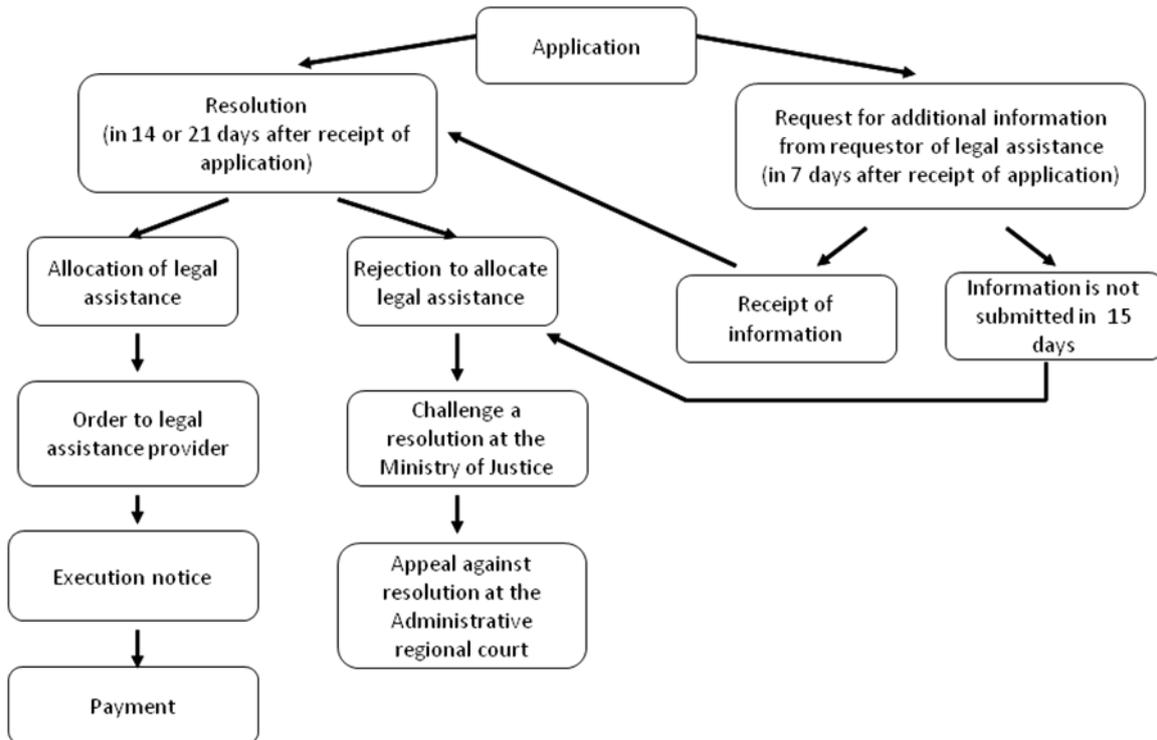
The procedures by which the state ensured legal aid is granted in civil and certain administrative disputes does not apply to the provision of state ensured legal aid in criminal proceedings. In accordance with the Criminal Procedure Law the state ensured legal aid can only be provided by sworn advocates (advocates). An advocate in criminal proceedings is appointed to a person in accordance with the procedures specified in the Criminal Procedure Law. However the Legal aid administration's responsibility is to pay out funds to advocates who have provided state ensured legal aid in criminal proceedings.

## 7) Different Legal Aid Structures

There are two state ensured legal aid providing schemes in Latvia:

(1) State ensured legal aid in civil (also cross-border) and some administrative disputes. A person who wishes to receive legal aid in civil disputes must submit:

- a submission for legal aid – a completed legal aid application form;
- if necessary, copies of the documents certifying the information referred to in the form;
- documents certifying the special situation of the person, or a document (statement) issued in accordance with the procedures specified in regulatory enactments, certifying the conformity of the person with the status of a low-income or needy person.

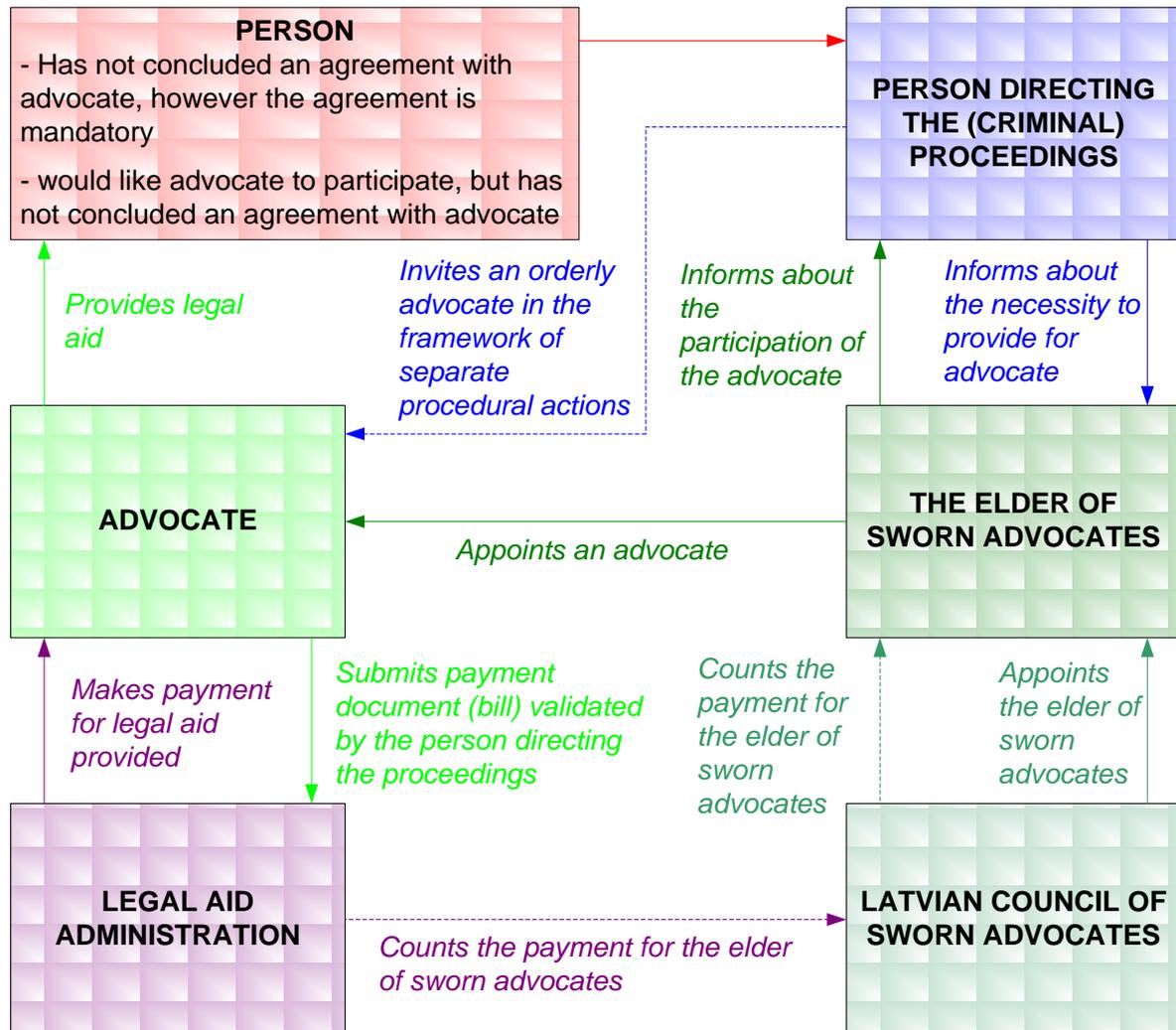


In administrative cases state ensured legal aid is granted in:

- the appeals procedures during the process of granting an asylum (asylum seeker);
- the process of appealing decisions to issue an expulsion order or decisions of the contested decision on forced expulsion within the scope of the Immigration law (third-country nationals staying illegally in Latvia).

Procedure of granting state ensured legal aid in administrative cases is different than in civil disputes. In some cases the Legal Aid Administration decides to grant or refuse to grant legal aid, and in some cases the institution which is responsible for the examination of an application for asylum shall ensure the evaluation of the need for legal aid.

(2) State ensured legal aid in criminal proceeding. An advocate for the representation of a person and for the defense of a person in criminal proceedings is appointed according to the procedures specified in the Criminal Procedure Law. Criminal suspects during the police investigation stage as well as crime victims in case if they don't have an advocate or they can't afford one, may apply for legal aid addressing the application to the person directing the criminal proceeding. An advocate can be appointed by the court through the appointed sworn advocate elders.



Legal Aid in Latvia also provides a fair share of programs and services to help low-income people who need legal aid:

- Municipalities' effort in the field of provision legal aid to low-income persons plays a significant role in the Latvian legal aid system. More and more municipalities set up telephone help lines and centers where the residents of that municipality can receive help (also legal aid).
- As in other countries the law schools legal clinics participate in the provision of legal aid to low-income or needy persons. They maintain and develop their free legal aid services as a field for practical training for their students.
- In the past few years some non-governmental organizations have emerged, which also provide assistance (including provision of legal aid) to low-income or needy persons. Very limited amount of legal aid is being provided through these organizations.

## **8) Financial Eligibility**

According to the State Ensured Legal Aid Law, and Criminal Procedure Law the state ensured legal aid is free of charge for those persons meeting a required criteria.

In civil disputes the means and merits test is applied, in administrative cases and in criminal cases - the means test is applied.

In civil disputes the State Ensured Legal Aid Law states that persons are eligible to receive state ensured legal aid if:

- they have obtained the status of a low-income or needy person in accordance with the procedures specified in the regulatory enactments regarding the recognition of a natural person as a low-income or needy person; or
- they find themselves unexpectedly in a financial situation which prevents them from ensuring the protection of their rights (due to natural disaster or *force majeure* or other circumstances beyond their control), or they are on full support of the State or self-government (hereinafter – special situation).

In administrative cases the State Ensured Legal Aid Law states that asylum seeker and third-country nationals staying illegally in Latvia are eligible to receive state ensured legal aid if these persons, taking into account their special situation or state of property and income level, are unable to ensure the protection of their rights.

In criminal cases the person directing the criminal proceeding decides whether to grant or refuse to grant state ensured legal aid in accordance with the procedures specified in the Criminal Procedure Law.

## **9) Scope of the Legal Aid**

As previously mentioned state ensured legal aid in Latvia can be provided in civil disputes, certain administrative disputes and in criminal cases.

In civil, administrative dispute and in criminal cases the Legal Aid Administration ensures:

- legal consultation;
- assistance in drawing up of procedural documents;
- representation at the court.

State ensured legal aid in civil disputes usually is granted in: divorce cases, alimony cases, child custody cases, employment cases, debt and housing disputes, recovery of damages cases, domestic violence etc. State ensured legal aid in administrative disputes is granted in asylum and immigration cases.

A person who, in accordance with the law, has the right to state ensured legal aid in civil, administrative and criminal cases may request legal aid until the final court adjudication has come into effect.

The State Ensured Legal Aid Law also defines grounds for refusal of granting legal aid, for example, legal aid shall be refused if the State Ensured Legal Aid Law does not provide for the respective case for ensuring legal aid, or if the legal aid requested by a person is unfounded, or if a dispute is settled in a court of arbitration or by using other alternative mechanisms for the settlement of disputes etc.

## **10) Legal Aid Expenditure**

State ensured legal aid (civil, administrative) per year costs approximately LVL 65 000-70 000 (EUR 92 000 – 99 000). In criminal cases state ensured legal aid per year costs approximately LVL 570 000 – 580 000 (EUR 806 110 – 820 260)

## 11) Cases Statistics

State ensured legal aid in civil and administrative disputes:

	2009	2010	2011	2012
Total number of requests of natural persons	1764	2641	3288	2823
Decision regarding granting of legal aid	1531	2278	2755	2279
Decisions regarding withholding and termination of providing of legal aid	251	667	869	1272

State ensured legal aid providers in civil and administrative disputes:

	2009	2010	2011	2012
Person who has signed a legal aid contract with the Legal Aid Administration and can provide state ensured legal aid	134	141	140	139

Received payment orders (civil, administrative and criminal cases) in the Legal Aid Administration from legal aid providers:

2009	2010	2011	2012
21 135	21 760	23 222	23 960

### **Contact information:**

Legal Aid Administration  
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