

# National Report for ILAG June 2023 – Israel

## 1. Country details: States of Israel

<b>Population</b> (March 2023)	9.714 Million
<b>GDP</b> (2022)	4660.09 Billion New Israeli Shekels (NIS) (approximately 1287.4 Billion USD).
<b>Poverty line</b> (2021)	50% of median income or 2,849 NIS
<b>Percentage of population living in poverty</b> (2021)	The proportion of households below the national poverty line was <b>21%</b> .
<b>Number of practicing lawyers</b>	<b>+70,000</b>

## 2. Legal Aid Organisation / Authority:

There are two separate legal aid authorities, one for criminal legal aid, and the other for civil legal aid.

**The Public Defender's Office (PDO)** was established in 1995, by virtue of the Public Defense Act, in order to provide high quality professional legal representation to suspects, defendants, detainees and convicted persons in criminal proceedings. The PDO has a constitutional role in safeguarding fair process and equality before the law in the adversary legal system in Israel.

The delivery model is mixed. The legal work at the Public Defense is performed by an internal staff of attorneys – its permanent employees - and a large number of external attorneys that serve as public defenders and work out of their own offices. The external attorneys are compensated in different models – some cases are paid under retainer contracts, others on the basis of hourly rate, and others on the basis fixed fee per hearing. The fee is regulated by the lawyers' fee Regulations (2000). In 2021, the PDO employed 125 internal lawyers and about 800 additional independent lawyers in its six (6) districts throughout the country.<sup>1</sup>

The PDO replaced a system of appointed counsel by the courts, under which many defendants were left without any legal representation, and those lucky enough to get a court appointed lawyer - often received extremely poor representation. Since its establishment, the PDO grew rapidly and became a major player in the Israeli criminal justice system. It currently represents the majority of suspects and defendants around the country.

The PDO is part of the Ministry of Justice but enjoys financial independence. While it is overseen by the MoJ in respect of administration and budget; the appointment of the Chief PD and the office's professional work is supervised by a special and independent board

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<sup>1</sup> Source: States of Israel, Core Document, HRI/CORE/ISR/2021, February 2021.

headed by the Minister of Justice and comprised of representatives of the Bar association, the judiciary and legal academia. Thus the Public Defender's Office enjoys a unique status within government and its professional independence is preserved by law. Section 15 of the Public Defender law explicitly states that in cases of conflict of duties between the duties owed by public defenders to the State as government employees - and the duties owed by public defenders toward their clients, the duties owed by public defenders towards the clients shall prevail.

**The Legal Aid Department in the Ministry of Justice has been providing legal aid in the field of civil law for over 40 years, pursuant to the Legal Aid Law, 5732 – 1972 and the Legal Aid Regulations, 5733 – 1973.**

The LAD is a unit within the MOJ that provides free legal aid in civil trials and in certain administrative appeals. While being part of the GOI, it enjoys a degree of independence and can file suits against the State on behalf of victims.

The LAD provides legal representation in a wide range of civil law issues (see list below under 4). This includes the representation of involuntarily hospitalized persons, representation in psychiatric committees and appeals on these committees' decisions regarding involuntary hospitalization. The financial eligibility test does not apply in these cases, nor does the likelihood of winning the case test at the psychiatric committees' level.

The LAD employs 117 lawyers as part of its staff, and contracts about 1100 external lawyers.<sup>2</sup>

*The Child Representation Unit* within the LAD (*A Lawyer of My Own Project*) is the organizational framework for child representation in civil proceedings. The Unit's strategic stated aim is to provide the best possible legal aid service for children and youth and to promote their right to access to justice, particularly in child protection proceedings. All child legal aid services are provided by the LAD free of charge. Children are represented from birth until they turn eighteen (18). Following Amendment No. 20 to the *Legal Aid Law* 5732-1972, the Unit also provides legal aid and assistance to children and youth **victims** of severe sexual abuse, throughout the criminal proceedings against the perpetrator, as well as during any legal or administrative proceeding connected to the penal proceedings (such as protection orders, civil tort suits, etc.).

### **3. Budget and Spend:**

The budgets of the PDO and LAD are funded by the government of the State of Israel, on an annual basis. An estimated budget is prepared by the Ministry of Finance, and may be adjusted on the basis of needs.

#### **PDO Spending - Lawyers' fee and other expanses**

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<sup>2</sup> Annual Report of the LAD, 2020. Available at <https://www.gov.il/he/departments/publications/reports/legal-aid-2020> (this is the most recent report).

In both 2020 and 2021 the actual spending was slightly below the approved budget.<sup>3</sup>

Type of payment	Total 2021 (NIS)	Total 2020 (NIS)	Percentage 2021	Percentage 2020
Payment for representation in cases and on call	148,845,728	133,351,171	81.56%	80.47%
Payment to lawyers on retainer	24,966,719	23,397,035	13.58%	14.12%
Payment to lawyers on special agreement to represent in arraignment days	923,136	1,867,500	0.51%	1.13%
Payment to lawyers employed on an hourly basis	201,556	473,663	0.11%	0.29%
Defence expenses (expert witnesses and private investigators)	3,186,025	3,371,040	1.84%	2.03%
Expenses on photocopying investigation materials	4,373,249	3,251,776	2.40%	1.96%
<b>Total</b>	<b>184,496,413</b>	<b>165,712,185</b>	<b>100%</b>	<b>100%</b>

The average cost per procedure in 2021 for the **PDO** stood at about 1,745 NIS per procedure (about 477 USD).

The LAD's spending for 2021 was **237,787,264** NIS - 20.75 % for lawyer's fees and the rest for purchases. In 2020 the spending was 229,674,100 NIS. In both 2020 and 2021 the actual spending was slightly below the approved budget.<sup>4</sup>

#### **4. Scope, Caseload and Eligibility:**

##### Criminal cases

All defendants, detainees and suspects have a right to legal representation in any criminal proceedings that pertain to them, but not all are eligible for public defense. The right to be represented by the PDO is defined by law and depends, among various factors, on the

<sup>3</sup> See <https://next.obudget.org/i/budget/00085104/2024?theme=budgetkey> the blue line is the original budget, the orange line is the adjusted budget and the green line is the actual spending.

<sup>4</sup> See <https://next.obudget.org/i/budget/00085105/2024?theme=budgetkey>. The blue line is the original budget, the orange line is the adjusted budget and the green line is the actual spending.

severity of the offence, the economic status of the person requesting the service and on further characteristics.

Section 18 of the Public Defense Act lists the individuals who are entitled to representation by the Public Defense Office. Eligibility depends on the type of legal proceeding, the severity of the offense, and the financial needs of the individual requesting the service. There are circumstances in which the applicant's financial status is considered, and others in which eligibility for public defense is not dependent on financial needs. Below is a concise list of the key causes for eligibility for representation by the Public Defense Office.<sup>5</sup>

- Defendants accused of a **severe crime** in a district court (punishable by 10 years of imprisonment or more);
- **The prosecution requests at the outset of the trial that if convicted - that the defendant will be punished by imprisonment;**
- **Indigent** defendants accused of a crime punishable by **5 years of imprisonment** or more;
- **Disabled** defendants (mute, blind, deaf, suspected of having a mental illness or cognitive disabilities);
- **Juveniles** (with the exception of minor traffic offenses);
- **When a court order was issued** to appoint a public defender for the defendant;
- A defendant summoned for a hearing as part of a day of **consolidated court hearings**
- **Detainees:**
- **Indigent** detainees held for investigation purposes (but not yet indicted)
- Detainees for which a request has been filed for **remand until end of procedures**
- Juvenile detainees

**Additional procedures:**

- Prisoners who were appointed public defenders for a hearing before **the parole committee**
- **Extradition** procedures;
- Sentenced criminals who request **retrials** when a cause is found
- Court deliberations held by virtue of the **law for the protection of the public from sexual offenders**

Fees required from persons entitled to representation in **criminal cases**

The Public Defender's Regulations (obligation to pay for those entitled to representation), 2011 5772 establish an obligation of an accused or an appellant who is declared to be

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<sup>5</sup> Source: <https://www.justice.gov.il/En/Units/PublicDefense/PublicInfo/Pages/Applicants.aspx>

entitled to representation and is appointed an advocate on behalf of the PDO to pay a fee, according to the fixed amounts, in section 1 of the regulations as detailed below:

- 1) When the indictment was submitted to the district court - 1,274 NIS;
- 2) When the indictment was submitted to another court – 464 NIS; And when the indictment was signed by an attorney from the state attorney's office – 637 NIS;
- 3) Regarding an appellant whose case is heard in the Supreme Court - 1,274 NIS;
- 4) Regarding an appellant whose case is heard in the district court - 464 NIS.

The regulations stipulate that a debtor can be exempted from payment "in exceptional cases where, taking into account his income, the applicant's proven property and debts, or considering his age, marital status or health, he is unable to pay; a full or partial exemption as well as postponement of the payment date or division to installments will be allowed, according to the instructions of the state public defender.

Regulation 4 of the regulations states that the PDO will transfer to the center for the collection of fines and fees the collection of debts at the end of the deadline set for the payment of the fee. Transferring the handling of debt collection to the center helps to preserve the separation between the representation procedures and the collection procedures.

During the year 2021, the total amount of fees was NIS 13,322,177 in 26,984 procedures.

The total collection in 2021 was about NIS 4.4 million. Of this, approximately NIS 805,000 were paid by the clients of the PDO after a demand for payment was made against them, and approximately 3.6 million NIS were collected by the center for the collection of fines. Debts in the amount of about NIS 6.8 million were sent to the fine collection center; and exemptions and reliefs were granted by the PDO to 6,132 clients in a total amount of approximately NIS 3 million.

### **Caseload**

In 2021, the lawyers of the PDO represented clients in 104,566 proceedings, among them 28,895 criminal cases. The PDO represented in 10,910 cases involving minors, about 10% of its total cases. The PDO represented prisoners in 2181 proceedings in parole committees and in 487 petitions. The Supreme Court's department received 745 applications and provided legal representation in 166 criminal appeals and 22 requests for criminal appeals.<sup>6</sup>

**Table:** Applications for representation in 2021 by suspects - broken down according to the source of the application and the timing of receiving the notification

<b>Before investigation</b>		<b>After investigation</b>			<b>In courts</b>		<b>Total number of</b>
The total number of	The percentage	The total number of	The proportion	The total number of	The proportion		

<sup>6</sup> Source: PDO 2021 Annual Report, published 20 November 2022, available at <https://www.gov.il/he/departments/news/new-2011>

applicants whose request for representation was transferred from the police before investigation	of applicants whose request for representation was forwarded by the police prior to the investigation out of the total number of applicants who requested representation from the PDO	applicants whose request for representation was transferred from the police after an investigation	of applicants whose request for representation was transferred from the police after an investigation out of the total number of applicants who requested representation from the PDO	applicants whose request for representation was accepted in court for the first time	of applicants whose request for representation was accepted in court for the first time out of the total number of applicants who requested representation from the PDO	<b>applicants</b>
<b>36,766</b>	71.30%	<b>8034</b>	15.58%	<b>6767</b>	13.12%	<b>51,566</b>

### Civil cases

According to the *Legal Aid Law 5732-1972*, and the *Legal Aid Regulations 5733-1973*, there are three tests to determine eligibility for receiving legal aid: the legal field of the lawsuit, financial eligibility, and the likelihood of winning the case. Eligibility for legal aid is conditional on three cumulative conditions:<sup>7</sup> A thematic test of legal matters in which legal aid may be granted; Examination of economic eligibility: Legal aid is provided only to those who are entitled to it financially, except in the matters listed below.

The economic test includes two cumulative tests:

**Income test:** Examination of the income level of the applicant and his family.

An individual or family of up to three persons whose income is up to 67% of the average wage (the average wage currently stands at NIS **11,870**). Each additional person has an additional 6%. In matters of personal status, the income of a spouse is not examined.

**Property test:** An examination that the property belongs to the applicant and can be realized (for example: savings, car, etc.) or the property for which a loan will be granted, does not exceed three times the average wage in the economy (NIS **35,610**). This exception does not apply to the residence or property of a spouse.

**The following cases do not require the examination of economic eligibility:** Social Security, Holocaust survivors, forced hospitalization, parental representation in adoption

<sup>7</sup> [https://www.gov.il/he/service/legal\\_aid\\_application](https://www.gov.il/he/service/legal_aid_application)

proceedings, children and youth, alimony collection, victims of human trafficking, victims of death (murder and homicide), victims of sexual offenses ( In criminal proceedings and in obtaining a restraining order on the return of the offender to the victim's environment, victims of hostilities, bereaved families, medical matters under the Legal Qualifications and Guardianship Law or legal assistance for those who expose acts of corruption in their workplace (whistle-blowers).

**Examination of the legal chance of success of the procedure:** In every case (except for exceptions, such as: representation in psychiatric committees, representation of parents in child adoption proceedings, etc.), the legal chance of success in the procedure will be examined. In this context, the factual and legal aspects will be examined, while examining the evidence and claims of the opposing party.

#### **Total number of applications and grants for the last two years**

In 2020, the LAD opened 97,747 files, a 3.6% decrease compared with 2019. It is presumed that the decline is due to Covid-19 restrictions that have brought about a general decrease in courts' activities. 51% of the cases were civil law cases, 41.9% personal status cases, and 7.1% of the cases were related to social security claims.

In 2020, the LAD finalized 107,297 cases, compared with 105,532 in 2019.

**Are means tested contributions part of your (a) civil (b) criminal (c) initial advice eligibility requirements? In your jurisdiction, are legal aided litigants who lose their case liable to pay the other side's legal expenses/ costs?**

Fees required from persons entitled to representation in **civil cases** (per case):

- 1) 71 NIS for those whose income does not exceed half of the amount determined in the income test.
- 2) 143 NIS for those whose income exceeds half of the amount determined in the income test.

Initially, an advance payment of 36 NIS must be paid as a condition for processing the case (unless there is an exemption from paying the fee). If it is decided that there is an entitlement to legal aid, the advance will be deducted from the total fee amount and the applicant will be asked to complete the amount. If it is decided that there was no reason to require the applicant to pay a fee, the amount of the advance will be returned to the applicant.<sup>8</sup>

## **5. Quality Assurance:**

Quality Assurance in criminal cases (PDO)

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<sup>8</sup> [https://www.kolzchut.org.il/he/%D7%94%D7%92%D7%A9%D7%AA\\_%D7%91%D7%A7%D7%A9%D7%94\\_%D7%9C%D7%A1%D7%99%D7%95%D7%A2\\_%D7%94%D7%9E%D7%A9%D7%A4%D7%98%D7%99\\_%D7%9E%D7%9E%D7%A9%D7%A8%D7%93\\_%D7%94%D7%9E%D7%A9%D7%A4%D7%98%D7%99%D7%9D](https://www.kolzchut.org.il/he/%D7%94%D7%92%D7%A9%D7%AA_%D7%91%D7%A7%D7%A9%D7%94_%D7%9C%D7%A1%D7%99%D7%95%D7%A2_%D7%94%D7%9E%D7%A9%D7%A4%D7%98%D7%99_%D7%9E%D7%9E%D7%A9%D7%A8%D7%93_%D7%94%D7%9E%D7%A9%D7%A4%D7%98%D7%99%D7%9D)

In order to ensure that adequate representation is provided to the clients of the PDO, the Public Defender's Law imposes on the national public defender the duty to monitor the professional level of all lawyers acting on its behalf, and on the district public defenders to conduct professional supervision of the work of the public defenders representing on behalf of the district for which they are responsible.<sup>9</sup>

The process of ensuring the quality of representation has four main objectives: ensuring the existence of adequate representation in every case and making the professional decisions required to promote the client's interests and protect his rights; Constant monitoring of the professional level of the lawyers and the quality of the representation provided by them; Strengthening the high professional status of the public defender's office; and maintaining the rules of proper administration and public resources.

The public defender's office works to ensure the quality of representation on several levels: first, through the work of the quality assurance departments and other dedicated professional departments in the various districts; secondly, by the professional guidance of appointees in the national public defender's office, whether directly or through various forums, chief among them the forum for the quality of representation;

The PDO adopted the "matrix management" whereby department managers and thematic heads in the districts of the Public Defender's Office are directly subordinate to the district defenders, but at the same time they are professionally guided by supervisors of professional fields in the National Defender's Office. This allows for repeated feeding between the districts and the headquarters unit, the national defense, as well as mutual consultations, knowledge sharing and solving broad problems. Over the years, inter-district professional forums have been developed in the Public Defender's Office that deal with areas of activity such as control of the quality of representation; Arrests; prisoners; youth; psychiatry, sex offenders and people with disabilities; the community courts; traffic; police violence; taxation and economic enforcement; administrative law; forensic evidence; holistic representation; prevention of false convictions; cyber and digital evidence; continuing education; and clinics.

#### 1) Quality assurance departments

In all the districts of the defense department, there are currently dedicated departments for the quality of representation where the supervision work is concentrated. This structure has significant advantages: accumulation of expertise and experience; concentration of professional knowledge; Centralization of information about the work of lawyers; uniform instructions for lawyers; Establishing a general policy and identifying key issues as targets for treatment; unified audit and control; right balance between uniformity and diversity and creativity; prevention of erosion; and creating unit pride. Beyond the general work of the department for the quality of representation, unique control work is carried out in other departments, in types of cases and procedures that require special expertise. Each external

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<sup>9</sup> Source: PDO 2021 Annual Report, published 20 November 2022, pages 118-120. Available at <https://www.gov.il/he/departments/news/new-2011>



public defender is assigned an internal lawyer from the Department of Quality of Representation, who serves as his permanent referent in all the cases he represents.

As a general rule, ensuring the quality of representation includes monitoring the way the cases are managed; providing ongoing advice to the representing attorneys; Periodic assessments regarding the quality of representation provided by the defense attorneys; Going over documents and correcting them; Handling malfunctions in the representation and complaints of clients, judges and other parties; making decisions regarding filing appeals and appeals; approval of expert opinions and defense expenses; and training young defense attorneys to represent independently on behalf of the Public Defender's Office.

## *2) Continuing legal education, workshops, training and legal briefing*

Every quarter the PDO organizes a seminar for the internal lawyers and each district organizes seminars and workshops for external lawyers working within the district. Following the suspension of the face-to-face seminars, the training forum decided in 2020 to hold for the internal staff of the public defender's office a series of Zoom meetings with senior officials in the legal world and online training for defense attorneys, and this activity continued in 2021 as well.

Trainings for external staff in the different districts continued in 2021 and covered topics such as representation of persons with disabilities, representation of children, representation of prisoners, issues related to evidence, memory bias and other cognitive issues, false convictions, and more.

## Quality assurance in civil cases (LAD)

In view of the large amount of cases in the legal aid, the legal aid carries out proactive supervision of the external lawyers - supervision based mainly on a model of exemplary "depth" inspections in order to ensure the quality of the representation. The supervision outline is based on a broad professional concept that sees the in-house lawyer as the leader of a group of colleagues, promotes professional discourse, shares knowledge and in-depth acquaintance with a group of lawyers specializing in the same professional field. In the regulatory aspect, the in-house lawyer examines all the aspects related to the performance of the outside lawyer in the cases managed by him, including: professional level - level of formulation and proper legal argument, providing a respectful and professional service, meeting the deadlines required by law and according to the court's instructions and showing a respectful attitude to the house the law and colleagues in the profession. In addition, the internal lawyer gathers and examines all the complaints or letters of evaluation received about the lawyer during the relevant period, information collected from client surveys and proactive conversations with clients, as well as requests for changes of editors

Law and disconnection of the customers with them. The internal lawyer also accompanies the external lawyer to hearings at the various courts, where as part of this accompaniment the quality of the representation, the quality of the oral argument and an appropriate and

respectful attitude towards the court to the disputing parties and the legal aid clients are examined.

After collecting and examining all the data, the supervising lawyer formulates a comprehensive supervision summary report and invites the external lawyer to a feedback conversation, in which he reflects to him the findings, points for preservation and improvement.

In cases where issues that require significant improvement arise as part of the feedback, another feedback date is set, in order to examine the implementation of the points for improvement that came up during the supervision. Lawyers whose level was found to be insufficient during the supervision are being considered for removal from the array of representing lawyers. During the year 2020, about 83 in-depth inspections were carried out in the legal aid districts. This is a decrease compared to 2019, which is partly due to the reduction of manpower during the Corona period and partly due to the transition to additional inspection tools.

Following these in-depth inspections, the engagement with a number of lawyers found to be unsuitable for continued legal aid representation was terminated. In other cases, lawyers were removed from certain areas where it was found that their professional level in these areas was insufficient and additional lawyers were instructed to improve in various parameters of their work.

The quality of personal service is also important. A personal and respectful attitude towards clients, listening and understanding the client's needs, sharing and providing an explanation of the stages of the legal process and the availability of the lawyer are part of the legal aid requirements of any lawyer the representative on his behalf, and they are examined, among other things, as detailed above, by satisfaction surveys and by improving the handling of complaints.<sup>10</sup>

The Bar Association is responsible for professional ethics by receiving complaints of lawyers, and using administrative proceedings.

## **6. Public Legal Education:**

Defendants have the legal right to be informed of their right to public defender as soon as they are questioned by the Police as suspects. The PDO is on call for such cases, and it is the responsibility of the Police to inform all suspects of this right. There were no specific initiatives to increase public awareness of the availability of PDO services, however, detailed information on the right to legal representation in criminal cases is available online. In addition the PDO has an active Facebook page, Instagram and Twitter accounts which bring to the attention of the general public the many activities of the PDO, and its positions on different criminal justice issues.

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<sup>10</sup> Annual Report of the LAD, 2020. Available at <https://www.gov.il/he/departments/publications/reports/legal-aid-2020> (this is the most recent report).

The LAD also provides detailed information on its services on its website. The LAD has two hotlines for inquiries, as well as “first aid” stations in courts around the country to make civil legal aid easily accessible.

When it comes to civil legal aid for children, the LAD is undertaking various efforts (social media campaign, news items, ongoing contact with relevant counterparts and professionals dealing with children at risk) with the aim of raising awareness to the rights of children for legal aid services. The LAD also undertook various steps to make its services more accessible to children - by creating a dedicated email inbox for children, training the Legal-Aid Call Center staff to provide child-sensitive and urgent responses to children's applications, simplifying the legal aid request form so that it is adapted to children and youth, expanding the representatives cadre so that it includes lawyers from a variety of backgrounds, ethnicities, and legal specializations.

## **7. Alternative Sources of legal services:**

Most defendants in criminal cases without sufficient means are represented by the PDO, and private criminal lawyers are also available for those who can afford them.

In civil cases, the Bar Association provides pro bono services, there are NGOs that provide legal services (for example for victims of crimes), and there is also a variety of legal clinics in universities in Israel to assist refugees and asylum seekers, victims of crime, children etc.

Areas of legal aid within the framework of the Israeli Bar Association program include:<sup>11</sup>

- Financial / contractual claims
- Bankruptcy
- Execution of court orders
- Labor Law
- Torts
- Family matters (excluding division of property)
- Public housing

The Bar applies a means test based on average income, number of dependents, and property. According to their brochure, their property test is more lenient than the one of the LAD.<sup>12</sup>

## **8. Holistic legal services:**

There are several examples for holistic legal services in the country:

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<sup>11</sup> [https://www.israelbar.org.il/magazine/pro-bono\\_info\\_brochure\\_june\\_2022/6/](https://www.israelbar.org.il/magazine/pro-bono_info_brochure_june_2022/6/)

<sup>12</sup> [https://www.israelbar.org.il/magazine/pro-bono\\_info\\_brochure\\_june\\_2022/8/](https://www.israelbar.org.il/magazine/pro-bono_info_brochure_june_2022/8/)

In 2016, the Public Defender's Office launched a **holistic counseling project**, which aims to refer defense counsel clients to agencies/institutions/organizations that can help them solve their legal problems and exercise their social rights. The project is based on referring clients who need help directly and relatively simply, first and foremost to the legal aid department in the Ministry of Justice (LAD), and in other cases to organizations, associations, legal clinics and other bodies that provide legal assistance in the required areas. The main organization with which the Public Defender's Office participates in this context is, as stated, LAD - especially in the field of youth, where holistic representation is given to minor clients who are in need of protection/assistance as their parents/legal guardians are not providing for them. These minors, represented by legal aid in proceedings related to their status, often find themselves also involved in criminal proceedings as a result of their complex life circumstances. The cooperation between the lawyers representing the minors in the various proceedings, leads to a holistic thinking of the two bodies involved in the treatment and to achieve results tailored to the specific profile of each minor and minor. Early involvement of the legal aid system prevented in some cases during the year the filing of indictments, and the cases of those minors in need of assistance continued in the civil courts only.

During 2021, the main collaborations of the public defender's office were with the welfare authorities and the social services departments in the local authorities; National Insurance offices throughout the country; Rehabilitation basket services at the Ministry of Health and various associations; the Ministry of Absorption; the health funds; and a long list of legal clinics at law faculties. In addition, the cooperation with the Bar Association's pro-bono program and with other projects and initiatives continued. At the same time, the cooperation of the PDO with the LAD was tightened, and periodic work meetings were held between the district referents for holistic representation appointed by the public defender's office and their corresponding referents appointed by the legal aid offices.

**The Supportive Rehabilitation Counseling System** has been operating within the Public Defender's Office in recent years, to assist the work of public defenders. Public defenders often face difficulties in managing the complex social and personal profile of some clients, which includes financial distress, physical and emotional abandonment, mental and mental disabilities, debts, difficulties in exercising rights and lack of access to existing caregivers. The purpose of the Service is to assist and advise the public defender in identifying the client's needs in order to provide a holistic and tailored response at all stages of the criminal proceedings: arrest proceedings, criminal case management, appeals, proceedings before psychiatric committees, proceedings before parole boards and public protection law. In addition, the Service assists the public defenders in referring their client to relevant treatment and care/health providers.

**A holistic approach is also implemented by the Community Courts.** Community Courts began to operate in Israel as a pilot program in November 2014, serving various populations. Community Courts use a judicial and rehabilitative approach, aiming to reduce incarceration and prevent recidivism. These courts deal solely with criminal proceedings

while focused on the cooperation between the courts and the law enforcement agencies, the welfare services, education authorities and the community. In Government Resolution No. 1840 (August 2016), The Government ordered the expansion of this program with the aim of operating at least one (1) Community Court in each of Israel's six (6) judicial districts, and to date Community Courts operate in Be'er-Sheva, Nazareth, Ramla, Jerusalem, Haifa and Tel Aviv-Jaffa.

The year 2021 marked the end of the pilot period and the implementation of the project as an official part of the legal system. In this framework, the process of transferring the management of the project from Joint Ashlim to the management of the courts has begun (was due to be completed by the end of 2022). The steering committee of the community courts, of which the PDO is a member, accompanied the transition and discussed its implications for the ongoing functioning of the project, the relationship between the partners, as well as the place and role of the steering committee in the new organizational order. The steering committee also dealt with preparations for the expansion of the community model and its deployment at the national level.

In the meantime, a recommendation was formulated to establish new community courts and expand some of the existing courts in 2023-2024, in order to allow the accused to integrate into the project in an equal manner and independent of their place of residence. In 2021, the steering committee established three sub-teams consisting of representatives of the various bodies, which deal with the implementation of the model nationwide; in combination with defendants from Arab society; and in the rehabilitation program of the community court.

The PDO participated in the intensive discussions on amending legislation anchoring the activity of the community courts in Israel and their powers in the law.

## **9. UN SDG Standard 16.3**

### **Steps being taken to articulate and elaborate Sustainable Development Goal 16.3**

*Goal 16.3 is to "Promote the rule of law at the national and international levels and ensure equal access to justice for all." Indicator 16.3.1 looks at the "proportion of victims of violence in the previous 12 months who reported their victimization to competent authorities or other officially recognized conflict resolution mechanisms".*

Relevant services to victims include the following:

#### **Legal Aid for Family Members of Victims of Homicide**

In 2009, the Government decided to establish a legal aid system for families whose loved ones were killed. The program allows holistic care for the families, including financial and legal aspects. Since 2011, the Ministry of Labor, Social Affairs and Social Services (MoLSAaSS) established six (6) aid centers in the following cities: Be'er-Sheva, Jerusalem, Tel Aviv-Jaffa, Tira, Haifa and Kfar Kana. An entitlement committee is convened following a homicide, which includes senior representatives of the MoLSAaSS, the Police, and a jurist who qualifies as a

judge. The committee is tasked with determining the entitlement of the family of the victim to receive aid based on the circumstances of death. The details of a family that is found entitled are given to the aid center. The aid centers are headed by a social worker, and include therapy and mental care for the family members, for up to two (2) years. Representation is provided by 50 lawyers from the internal and external staff of the LAD.

In 2020, 161 new cases were opened by the LAD within the program - an increase of 35% compared to 2019. In about 80% of them legal assistance was granted to families in both the civil and criminal proceedings arising from the killing incident. In this framework, assistance was provided to families in 83 cases of accompaniment in criminal proceedings and 71 cases of representation in civil proceedings. In 14 cases, support was provided in appeal procedures.<sup>13</sup>

**Indicator 16.3.2** looks at “Unsentenced detainees as a proportion of overall prison population”

#### The right to consult with a public defender before questioning

The rate of applicants whose request for representation was transferred from the Police to the PDO has consistently risen in recent years. It was **71.3%** in 2021 compared with 66.07% in 2020. Approximately 30% of the detainees did not exercise their legal right to legal counsel prior to an investigation, but only following its conclusion, or even later, and prior to the extension of detention hearing in court. Regarding minors, the rates were higher: in 2021, the rate of notices related to minors prior to investigation was **94.5%**.

#### The right of pretrial detainees to have access to a lawyer

Section 34 of the *Criminal Procedure (Arrests) Law* states that a detainee is entitled to meet and consult with a lawyer. Following a detainee's request to meet with an attorney or the request of an attorney to meet a detainee, the person in charge of the investigation shall enable the meeting without delay, unless, such a meeting necessitates terminating or suspending an investigation or other measures regarding the investigation, or substantially places the investigation at risk. The officer in charge shall provide a written reasoned decision to postpone the meeting for the time needed to complete the investigation, provided this deferment **does not exceed several hours**.

The officer in charge can further delay this meeting if he/she issues a sufficiently reasoned decision to the effect that such a meeting may thwart or obstruct the arrest of additional suspects in the same matter, prevent the disclosure of evidence, or the capture of an object regarding the same offence. Such **additional delay shall not exceed 24 hours from the time of arrest**. An additional 24-hour deferment (to a total of **48 hours**) can be granted, if the officer in charge provides an elaborate written decision that he/she is convinced that such postponement is necessary for safeguarding human life, or thwarting a crime. However, such a detainee shall be given a reasonable opportunity to meet or consult with legal counsel prior to their arraignment before a court of law.

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<sup>13</sup> Annual Report of the LAD, 2020. Available at <https://www.gov.il/he/departments/publications/reports/legal-aid-2020> (this is the most recent report).

Section 11 of the *Criminal Procedure (Powers of Enforcement - Arrests) (Terms of Detention) Regulations 5757 – 1997* (the "*Criminal Procedure (Arrests) (Terms of Detention) Regulations*"), stipulates that the date of a detainee's meeting with an attorney shall be coordinated in advance, and that the commander of the detention facility shall enable the first meeting of a detainee with an attorney, at their request, even during extraordinary hours.

The Public Defender's Office has been consistently protesting the widespread use of the tool of detention until the end of the proceedings in criminal cases. According to the State Comptroller's report, over the years there was a significant increase in the number of detentions until the end of the proceedings and in their relative volume out of all detentions. In 1996, a year before the enactment of the Arrests Law, there were 4,363 detentions in Israel until the end of the proceedings (11% of all detentions). According to police data in 2020 there were 15,398 detentions in Israel until the end of the proceedings (33% of all detentions). The Comptroller's office notes that Israel is among the five countries with the highest rate of detainees per 100,000 people among the OECD countries.

In order to deal with the high number of detentions until the end of the proceedings, and following the appointment of the new national public defender, a step was taken within the framework of which an internal team was established in February 2022 in the PDO, the purpose of which is to delve deeper into the problem of the high number of detentions until the end of the proceedings, to map and refine the objectives at hand, and to propose a multi-action plan annually to deal with the problem. The establishment of the team is part of an overall strategic move led by the national public defender, within the framework of which the number of detention until the end of the proceedings was chosen as one of the core issues.<sup>14</sup>

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<sup>14</sup> Annual Report of the LAD, 2020. Available at <https://www.gov.il/he/departments/publications/reports/legal-aid-2020> (this is the most recent report).