

## National Report Template ILAG Ottawa June 2019

### 1. Country details:

#### **Ukraine**

Population: 42 386 403,

GDP: 3 558 706 000 000 UAH

National poverty line is approximately 42.5 UAH/per hour, 2,4% population is deemed to be living in poverty.

**There are approximately 43 500 practicing lawyers in the country;** 6760 have successfully passed the contests to acquire the right to provide state-guaranteed legal aid and are eligible for contracting; **2927 of them have contracts with regional and local legal aid offices** and, therefore, participate in state-guaranteed legal aid provision.

### 2. Legal Aid Organisation / Authority:

The system of state-guaranteed legal aid in Ukraine consists of Coordination Centre for Legal Aid Provision (hereinafter – Legal Aid Ukraine), its regional and local offices, as well as legal aid bureaus. The Legal Aid Ukraine is an independent state organisation within the competence of the Ministry of Justice. The central office of the Legal Aid Ukraine is situated in Kyiv, the capital of Ukraine, and executes the general governance in this sphere, overseeing and ensuring the strategic development of the legal aid in Ukraine. **The regional offices of the Legal Aid Ukraine (23)** are situated in the administrative centres of the regions, contracting criminal defence lawyers, ensuring secondary legal aid provision in criminal proceedings and coordinating the local offices of the Legal Aid Ukraine in the given regions. **The local offices of the Legal Aid Ukraine (84)** are situated in medium and big cities, contracting lawyers for civil and administrative cases, ensuring primary and secondary legal aid provision in the abovementioned branches of law and managing the legal aid bureaus. **The legal aid bureaus (424)** are situated in small and far-off localities, contracting lawyers for civil and administrative cases through a relevant local office of the Legal Aid Ukraine and ensuring primary and secondary legal aid provision in the abovementioned branches of law.

The Legal Aid Ukraine employs administrative staff; its regional, local offices and legal aid bureaus also employ in-house jurists (persons with higher education in the field of law, who practice law without a bar license) and contract lawyers ex-officio. **Secondary legal aid provision in criminal**

**proceedings is provided exclusively by lawyers. As of 2019, secondary legal aid provision in civil and administrative cases is almost evenly distributed between 2927 contracted lawyers and around 1600 in-house jurists** (in 2016 9,7% of cases were covered by jurists, in 2017 – 26,1%, in 2018 – 49,5%). Contracted lawyers receive case-based remuneration that includes positive coefficients for the complexity and the results of a particular case. In-house jurists, on the other hand, receive fixed salaries, with a limited set of bonuses. It has to be noted that in-house jurists generally receive lower remuneration than the contracted lawyers.

### 3. Budget and Spend:

The budget of the Legal Aid Ukraine constituted 419 875 000 UAH in 2017 and 693 851 900 UAH in 2018. Actual expenditures are usually higher than forecasted when establishing the budget of the Legal Aid Ukraine, so the final budget is commonly larger than the initial one.

As the budget for 2019 was not increased despite the growing expenditures, it was a major challenge to keep the sustainable and effective legal aid provision. Therefore, a reorganisation was developed and commenced through concentrating the back-offices at regional levels and decreasing the number of administrative staff, so that the number of legal aid access points would remain the same.

### 4. Scope, Caseload and Eligibility:

**All residents of Ukraine have the right for primary legal aid that consists of legal advice, provision of legal information and drafting of non-procedural documents.**

**Specific categories are eligible for secondary legal aid that consists of defence, representation and drafting of procedural documents.** The aforementioned categories include:

- persons under administrative detention or arrest
- detained criminal suspects
- imprisoned
- low-income persons
- persons with disabilities
- children in hardship
- refugees
- war veterans

- rehabilitated
- persons subjected to proceedings regarding compulsory psychiatric treatment
- persons subjected to proceedings regarding restriction of their legal capacity
- internally displaced persons (IDPs)
- persons that applied for IDP or war veteran/ATO participant status
- victims of domestic and gender-based violence
- all children

As it may be observed, as of today means testing is applicable to only one category.

In 2017 90 568 cases of secondary legal aid provision in criminal proceedings have occurred. Moreover, 567 340 applications for legal aid in civil and administrative cases were filed, including 73001 for secondary legal aid; accordingly, 501786 cases of primary legal aid provision have occurred, as well as 69457 cases of secondary legal aid provision in civil and administrative cases; 1590 applicants were transferred to specialised partner organisations, based on their legal problems.

In 2018 90 003 cases of secondary legal aid provision in criminal proceedings have occurred. Moreover, 623 842 applications for legal aid in civil and administrative cases were filed, including 76653 for secondary legal aid; accordingly, 553 301 cases of primary legal aid provision have occurred, as well as 72 800 cases of secondary legal aid provision in civil and administrative cases; 489 applicants were transferred to specialised partner organisations, based on their legal problems.

As it has been already mentioned, the whole population is eligible for defence in criminal proceedings and any kind of legal advice. Approximately 37% of population is eligible for secondary legal aid in civil and administrative cases.

It is up to the courts to decide if legal aided litigants who lose their case liable to pay the other side's legal expenses/costs.

##### 5. Quality Assurance:

A number of thorough quality standards for legal aid provision in different types of cases exists within the quality management system of legal aid

Ukraine. The central office of the Legal Aid Ukraine contains a separate Legal Aid Quality Assurance Division that is concerned with processing complaints, coordinating quality managers of the legal aid system in regions, developing new quality standards and training programmes for the in-house jurists and contracted lawyers.

To ensure the adherence to the standards, each regional office is staffed with a quality manager with a bar license, who observes the work of contracted lawyers in courts, as well as interviews the lawyers and their clients. If a violation is observed, a quality manager reports to the respective regional office or to the central office of the Legal Aid Ukraine, which, in turn, file an application to a local bar self-governance authority for assessment and disciplinary action. The internal instruments for dealing with violations are limited:

- development and conduction of training programmes to increase the professional competence of relevant lawyers
- non-renewal of contracts for secondary legal aid provision
- termination of contracts for secondary legal aid provision

To be eligible for a contract with a regional or local office of the Legal Aid Ukraine, lawyers have to pass special contests that include written tests and on-line courses on legal aid provision and the corresponding legal and organisational framework.

Contracted lawyers are limited to working on no more than 30 cases simultaneously. There is no formal limit for the number of cases that may be worked on by in-house jurists.

**It has to be noted that the Legal Aid Ukraine is currently going through the preliminary stages of peer review quality control mechanism implementation.**

## 6. Public Legal Education:

The Legal Aid Ukraine conducts awareness-rising and legal enlightenment campaigns on particular legal problems and for particular audiences on a regular basis, both independently and in a cross-institutional manner, like the “I Have A Right!” nationwide campaign that started in 2017.

To ensure that the access to legal aid is effective even in remote localities, as well as for people of low mobility, a network of 3000 distance legal aid access points in hospitals, military bases, prisons etc.; moreover, in the period of

2016-2018 more than 31 400 visits of mobile consulting groups were performed. Address visits to immobile persons are a common activity of the local legal aid offices.

In the context of informational technologies, two main initiatives function to enhance the access to legal aid:

- **the single all-Ukrainian legal aid call-centre**, where people may receive legal advice and information, including the addresses of the nearest legal aid offices;
- **WikiLegalAid** – an open database of almost 1500 legal consultations and algorithms freely accessible by people.

Needs assessment studies are conducted on regular basis, mainly in cooperation with the partners of the Legal Aid Ukraine, or independently by third parties, though in recent years an emphasis is made on building internal research capacities. **The newest study was conducted in 2018 and highlighted the ongoing problem of low awareness** about the right to legal aid among the people. In a set of 2053 people of different age groups, 23% knew about the Legal Aid Ukraine's offices in their cities; among those, who knew, 77% knew that the offices provide legal advice, 43% knew that the offices help to draft non-procedural documents and 16% have already applied to the Legal Aid Ukraine. **Nevertheless, the trust to the Legal Aid Ukraine is high** – 87% of those who knew about the offices would apply to them if needed and 89% of respondents would advise the same to their relatives.

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

Alternative sources mostly constitute regional and local NGOs, as well as their integrational networks and international organisations, as the institute of legal clinics is still developing. Depending on the specialisation of such legal aid providers, the Legal Aid Ukraine may transfer an applicant to them and vice versa. Since 2015, more than 14 900 applicants were transferred to partner organisations.

To ensure the sustainability of legal aid provision and legal empowerment at local and regional levels, the Legal Aid Ukraine is constantly working on developing the potential of relevant NGOs and legal clinics, thus striving to create effective Independent Legal Aid Providers, accountable to the standards of the Legal Aid Ukraine but tailored to serve the respective communities and not bound by the state budgeting.

## 8. Holistic legal services:

The Legal Aid Ukraine mostly links up the applicants with the non lawyer professionals through the network of partner organisations, for example transferring a victim of domestic violence to a specialised NGO for psychological assistance after and while providing the state-guaranteed legal aid.

**Restorative justice** for the underage and juvenile mediation are of the newer initiatives of the Legal Aid Ukraine, being piloted in cooperation with the UNICEF and the USAID.

## 9. UN SDG Standard 16.3

The Legal Aid Ukraine has integrated the UN SDG target 16.3 in most of the internal and external strategic documents and bylaws in the legal aid and access to justice spheres, being a major contributor to the Tblisi Declaration on the Implementation of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems and Progress on 'Access to Justice for All' of the 2030 Agenda on Sustainable Development.

Aside from the activities mentioned in the point above, the Legal Aid Ukraine also actively facilitates the regional and international exchange of the legal aid and access to justice practices through mutual study-visits and international conferences; **in 2019 the Ukrainian A2J School of Practice was established**, with the mission to explore, research, systematise and disseminate both regionally and globally the best national and international practices for ensuring an effective and comprehensive access to justice. Such dissemination will be conducted through the complex practical training programmes for the personnel of the governmental, non-governmental and international institutions, including the ministries of justice, independent legal aid systems and etc.

As the sustainability of the access to effective legal aid and justice are crucial for reaching the third target of the SDG 16, the Legal Aid Ukraine not only ensures the development of independent legal aid providers and legal empowerment of local communities, but also strives for guaranteeing the independence of the state-guaranteed legal aid system itself through the creation of the **Supervisory Board of the Legal Aid Ukraine**.