

International Legal Aid Conference

Antwerp 2007

Legal Aid in Finland

Providers of legal aid

Legal aid is provided by private lawyers and by Public Legal Aid Attorneys. **Private lawyers** are advocates or other private lawyers. 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. Other private lawyers are lawyers who are not under any public supervision. **A Public Legal Aid Attorney** is a lawyer working at a State Legal Aid Office. The activities of Legal Aid Attorneys are supervised in the same manner as those of advocates. Half of Public Legal Aid Attorneys are members of the Bar.

In most cases, the applicant's first contact is with the lawyer of his/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**.

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 lawyer, unless there is a special reason for it. The reason may be that the Legal Aid Office has a conflict in the matter, is too busy to take the client or the matter requires special knowledge that the Legal Aid Attorneys of the Office do not have.

The organisation of legal aid

Legal aid is governed by the Legal Aid Act, the Law 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://www.finlex.fi/en/laki/kaannokset/2002/en20020257.pdf> (Legal Aid Act)

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

<http://www.finlex.fi/en/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, 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.

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 an obligation to give the Legal Aid Office 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 in advance of the request.

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 the recipient of legal aid change, the Legal Aid Office may amend the legal aid decision to take account of the change. 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.

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

State Legal Aid Offices

The State Legal Aid Offices have two tasks: to provide legal aid and grant it.

With a population of about 5,2 million, and an area of about 340 000 km², Finland has 64 Legal Aid Offices, which are located mainly in municipalities with a district court. The Legal Aid Offices have 18 branch offices and about 100 branch clinics where clients are seen as required.

The Legal Aid Offices are small: they have from 4 to 30 salaried employees. The total number of employees is just 460, 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 clinics, recommending the appointment of legal aid attorneys. He/she is also responsible for regional development within the district.

The Ministry of Justice is vested with the overall management and supervision of Legal Aid Offices. **Public Legal Aid Attorneys are nevertheless independent and only under the supervision of the Finnish Bar Association when providing legal aid.**

Management by results in the Legal Aid Offices

The management by results of the Legal Aid Offices is a two-stage process. In the first stage, the Ministry of Justice and the Legal Aid Directors hold their results negotiations for the districts and for the Directors' home offices. The negotiations cover the productivity and cost-effectiveness targets for the following year for each Legal Aid Office. The Director reports on the workload of the offices within his or her district, as well as on their operations and resource needs. The results negotiations end in an agreement on, and granting of, outlays for each district and on the latitude that the Legal Aid Director will have in the recruitment of personnel.

In the second stage, the Directors hold results negotiations with the offices within their districts, within the framework established in the first-stage negotiations between the Ministry of Justice and the Directors.

During the course of the year, the Legal Aid Directors have access to up-to-date statistical information on the operations and finances of the offices within their districts, so as to be able to follow up on the results agreed on in the negotiations.

The Directors of the Legal Aid Offices hold annual meetings with the Leading Public Legal Aid Attorneys of their district, discussing topical matters regarding the district, legislative amendments and coordination of practices in administrative matters. The Legal Aid Directors also keep in contact with the offices within their district by telephone and email and, where necessary, visit the offices in person.

A new salary system was introduced. The salary consists of a task related part, an experience related part and a personal part. The assessment of the performance takes place in development talks between the Leading Attorney of the Legal Aid Office and the personnel. The Legal Aid Director conducts development talks with the Leading Attorneys of his or her district. The Legal Aid Director is also responsible for the equitability of the assessment of the work of the district.

Operational efficiency in the Legal Aid Offices

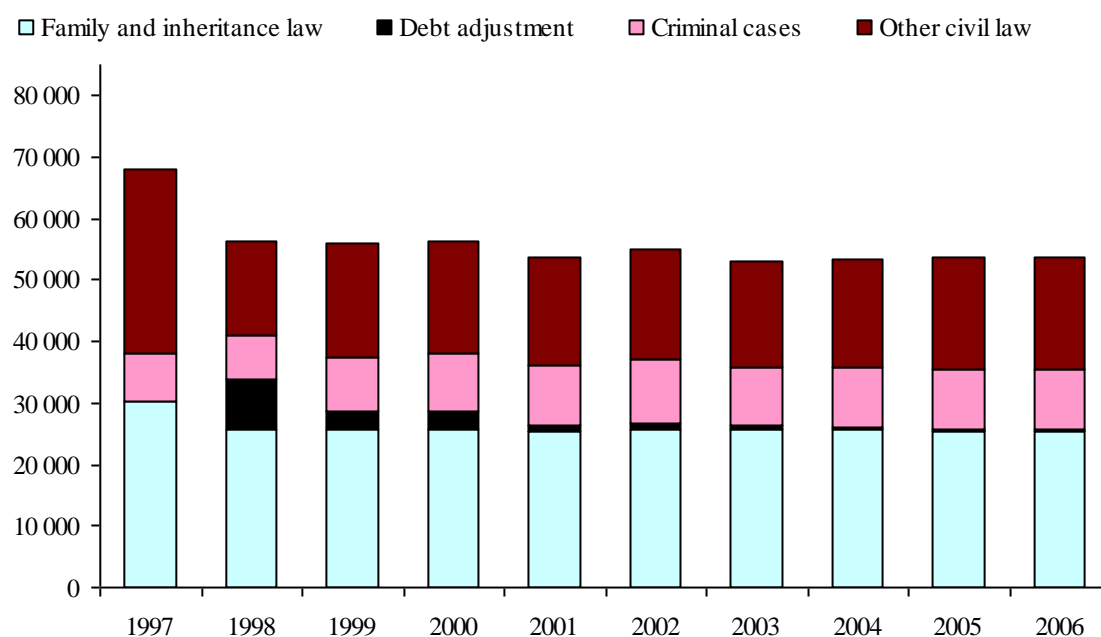
Table 1. Operational outlays and targets, 2003-2006

EFFICIENCY OUTLAYS 1000 €							
Legal Aid offices	2003	2004	2005	2006	Comp. to year 2005	Target 2006	Change % target
Revenue							
<i>Services subject to a charge</i>	3 565	3 918	4 048	4 048	0 %	3 633	11 %
Costs	22 261	22 685	23 050	24 171	5 %	24 196	0 %
Total net outlays (1000 €)	18 696	18 767	19 002	20 123	6 %	20 563	-2 %
Main operational targets							
Cost-effectiveness (Outlays/compeleted case unit)	84	79	82	89	9 %	84	6 %
Productivity (compeleted case unit/person working year)	483	514	510	500	-2 %	546	-8 %

Outputs and quality control in the Legal Aid Offices

In 2006, the Public Legal Aid Offices received a total of 53,722 cases. The number of incoming cases was at the same level as in 2005, also with regard to the breakdown of case types. It had been estimated that there would be an increase of 4 per cent in the incoming cases. In all, 82 per cent of the cases dealt with by the Legal Aid Offices pertained to civil law or administrative law. Of the civil law cases, 47 per cent concerned family and inheritance law, 1 per cent concerned debt adjustment for private individuals and 34 per cent concerned other civil law or administrative law matters. The share of criminal cases was 18 per cent of the total.

Figure 2. Incoming cases in Legal Aid Offices, 1997-2006

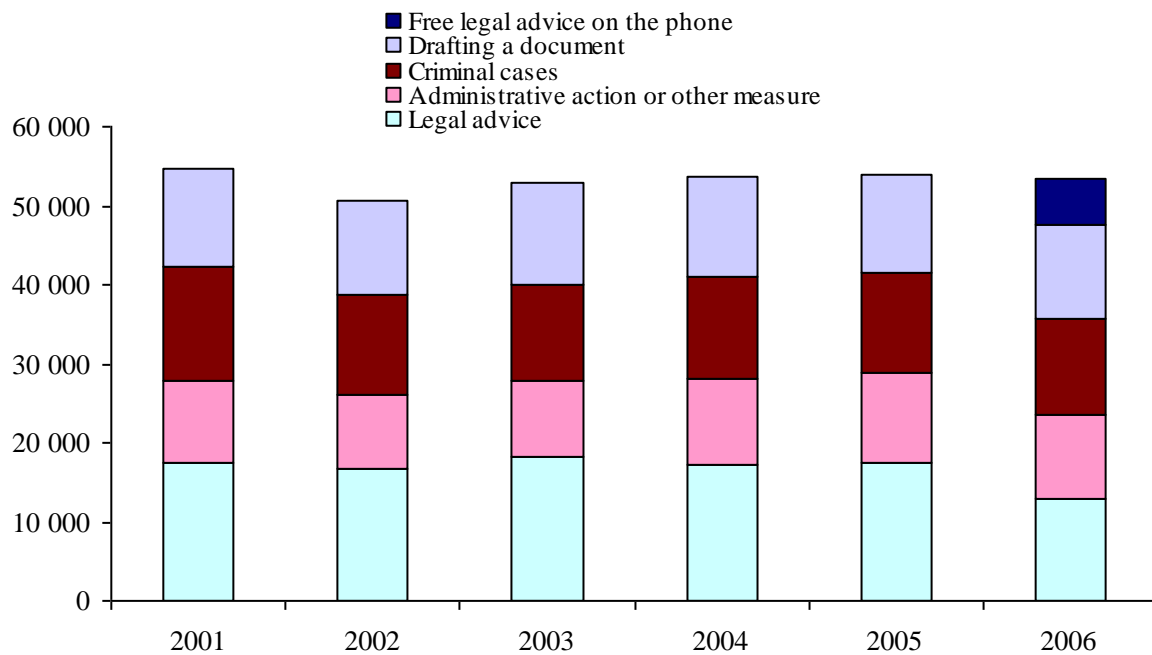


In 2006, the Legal Aid Offices dealt with a total of 53,351 cases, which is a reduction of 1 per cent from 2005. The target set for closed cases was not achieved (-4 per cent). Of the cases dealt with by the Legal Aid Offices in 2006, 11 per cent were closed by free legal advice on the phone, 24 per cent were closed with legal advice being given, 22 per cent with a document being drafted, 23 per cent with court proceedings and the other 20 per cent either with an administrative authority taking measures or by some other measure. The most typical civil cases proceeding to court pertain to divorce, child custody and maintenance.

Table 2. Cases dealt with in the Legal Aid Offices, 2001-2006

	Free legal advice on the phone	Legal advice	Drafting a document	Administrative action or other measure	Criminal cases	IN ALL (units)
2001		32 %	23 %	19 %	26 %	54 651
2002		33 %	23 %	19 %	25 %	50 715
2003		34 %	24 %	19 %	23 %	52 796
2004		32 %	24 %	20 %	24 %	53 766
2005		32 %	23 %	21 %	24 %	53 861
2006	11 %	24 %	22 %	20 %	23 %	53 351

Figure 3. Cases dealt with in the Legal Aid Offices, 2001-2006



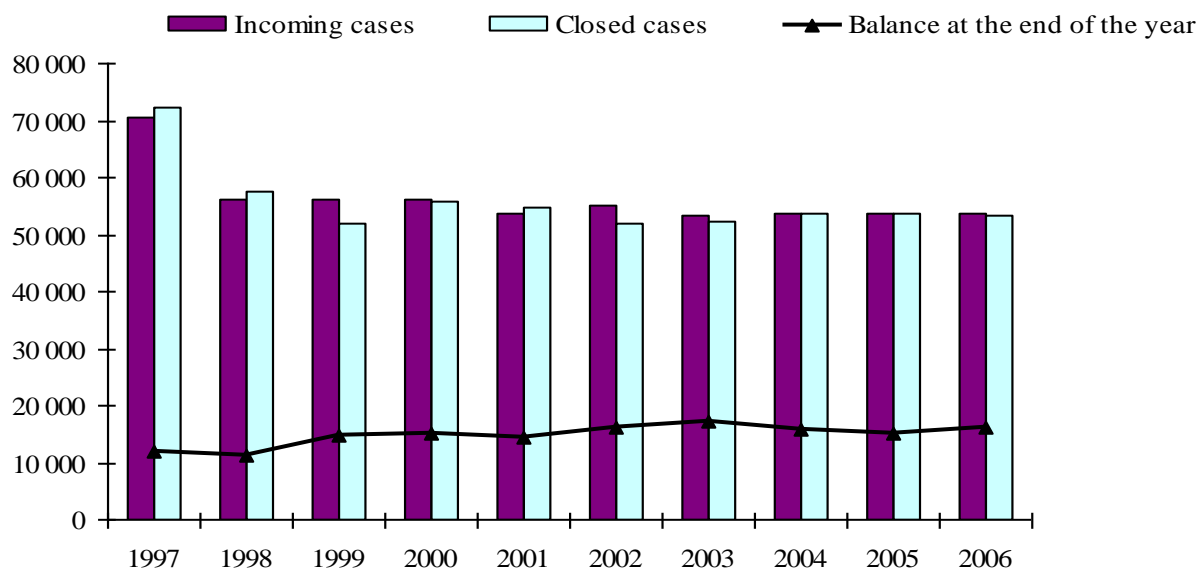
The Legal Aid Offices make the legal aid decisions both in cases dealt with by private attorneys and in cases dealt with in the offices. In 2006, the Legal Aid Offices issued a total of 21,951 legal aid decisions and carried out 1,987 means tests for the clients of private attorneys. In addition, a legal aid decision is made in every case that is dealt with in the office.

The mean waiting time in the Legal Aid Offices in 2006 was 6,7 days.

Table 3. Outputs and quality control in the Legal Aid Offices, 2003-2006

OUTPUTS AND QUALITY CONTROL	2003	2004	2005	2006	Comp. year 2005	Target 2006	Comp. to target
Cases							
<i>Legal Aid Offices</i>							
Incoming cases	53 240	53 544	53 574	53 722	0 %	55 813	-4 %
Cases carried over to the following year	17 039	15 883	15 656	16 021	2 %	16 828	-5 %
Main operational targets							
<i>Legal Aid Offices</i>							
Closed cases	52 317	53 766	53 861	53 351	-1 %	55 314	-4 %
Legal Aid decisions (units)	22 109	23 074	22 500	21 951	-2 %	22 541	-3 %
Queuing time (days)					-43 %		
		11,04	11,81	6,7		7,0	-4 %

Figure 4. Workload at the Legal Aid Offices, 1997-2006



Management and development of human resources

Table 4. Human resources 2003-2006

	Realization 2003	%	Realization 2004	%	Realization 2005	%	Realization 2006	%
Staffing level and structure								
Person-years worked (incl. employees and trainees from higher education)	446,9		461,4		450,5		458,0	
Numbers of staff	490		480		475		471	
Women	370	76 %	363	76 %	352	74 %	349	74 %
Men	120	24 %	117	24 %	123	26 %	122	26 %
Officials in permanent position	431	88 %	431	90 %	431	91 %	431	92 %
Officials in temporary position	59	16 %	49	13 %	44	9 %	40	9 %
Mean age	47	39 %	47,7	41 %	48,1		48,7	
Proportion of over-45s	63,7	13 %	67,5	14 %	70,9	15 %	73,5	16 %
Wellness at work								
Job-leaving %	2,1		2,1		1,3		1,3	
Entry %	11,8		8,6		13,0		13,3	
Disability pension %	0,4		0,6		0,8		0,8	
Absences for illness, working days/pyw	9,5		9,1		9,4		9,8	

In 2004, the Leading Public Legal Aid Attorneys participated in leadership training organised by the Training Unit of the Ministry of Justice. The personnel's wellness at work and retention of working capacity are an important aspect of a manager's duties; one means to meet this challenge has been the institution of individual performance and work development discussions between the managers and their subordinates.

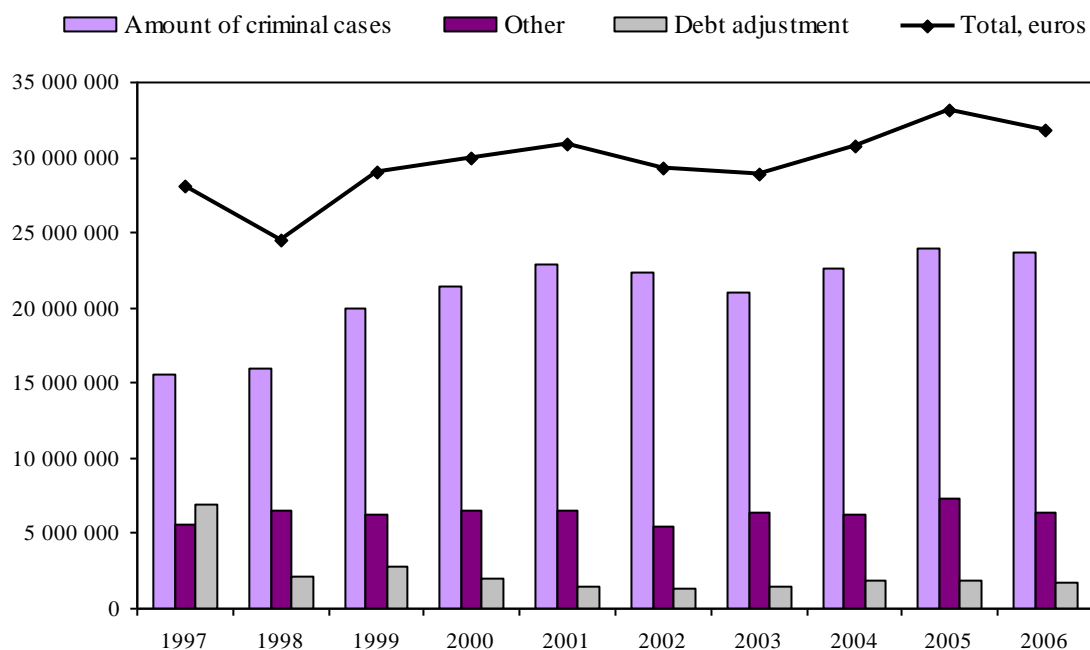
Legal aid provided by private attorneys

Private attorneys are paid a fee and expenses from public funds when they serve as a public defender or attorney of the injured party appointed under the Criminal Procedure Act, or when they serve as an attorney appointed under the Act on Public Legal Aid. In 2006 the fees and expenses paid to private attorneys amounted to EUR 30,0 million, an decrease of 4 per cent on the preceding year. This cost increase is mainly a result of the 8 per cent fee hike that took effect on 1 June 2004 (from EUR 84 per hour to EUR 91 per hour).

Private attorneys were appointed for 31,963 recipients of legal aid, no change from the preceding year. The average costs per recipient were EUR 939, no change from the preceding year.

Of the costs of legal aid provided by private attorneys, 77 per cent originate from the District Courts, 17 per cent from the Courts of Appeal and 6 per cent from other courts.

Figure 5. Costs paid to private attorneys and arising from debt adjustment cases, 1997-2006



In 2006, some EUR 1.7 million was paid in fees to administrators under the Act on the Adjustment of the Debts of Private Individuals, an decrease of 8 per cent on the preceding year. Criminal defendants acquitted by the courts were paid a total of EUR 2,7 million in compensation for legal costs; the corresponding number in 2005 had been EUR 2,0 million.

Year 2007 and forward

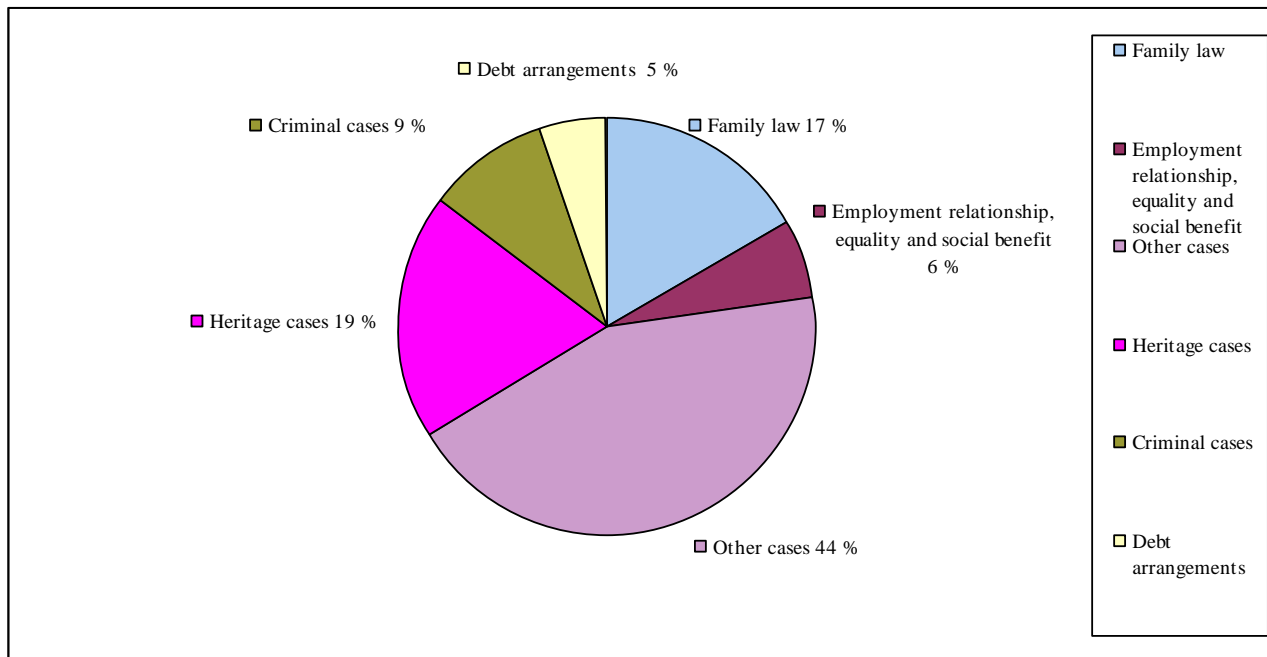
In accordance with the strategy of the Ministry of Justice, access to justice in Finland must be available on an equitable basis; it must also be available at the earliest possible stage, in proceedings that are suitable and flexible, and at reasonable cost. This is the basis for the development of the network of Legal Aid Offices so that the supply and demand of their services are in balance.

In the next few years smaller Legal Aid Offices will be administratively united so that in five years there will be around 40 offices. The service network will nevertheless remain almost the same as today. The purpose

of the reform is to enlarge the size of the offices thereby lessening the administration and leaving more time for legal aid work. Arranging replacements is also easier in bigger units.

A road sign service offered by Legal Aid Offices started as an experiment, in the autumn of 2005, and has become permanent service in 2007. The point of the service is to direct the person seeking assistance to the correct authority or to any other organisation which will be able best to provide the necessary assistance.

Figure 6. Incoming road sign service phones, year 2006



Another experiment with free legal advice over the telephone in simple legal questions will be continued. It is planned to make permanent by government proposal on and made permanent by legislation. The advice is provided by experienced Public Legal Aid Attorneys.

The financial and personnel administration of the Legal Aid Offices was concentrated in the Administrative Services Centre in 2006 and new ADP programmes were made available to the administration.

Proposals by an MOJ working group in spring 2007

The implementation of the legal aid reform that entered into force in June 2002 has been followed up. The follow-up and evaluation was conducted by the Research Institute for Legal Policy. The focus of the study was on access to legal services and their orientation, the cost development of legal aid, decision-making and appeals, quality and customer satisfaction and the relationship between the various systems of legal assistance. Based on this evaluation there has been a working group set by Ministry of Justice to make proposals for needed changes.

The upper limit of the legal aid cover will be lowered from 100 hours to 80 hours. The court will, however, be able to decide that the legal aid will be continued. A lengthening of 30 hours may be applied for at a time.

Fees decided on an hourly basis

The current grounds for payment have been difficult to apply and the determination of the fees has taken up an excessive amount of the working time of the courts. The fees have been partly determined according to the time spent on a case, and partly according to whether it has been a question of preparation of a case, an oral hearing or travelling and waiting time.

The fixed fees will now be abandoned and the criteria for the fees will be simplified. The compensation for a court hearing will always be paid on the basis of the actual time spent. The hourly fee will be raised from 91 euros to 100 euros. A maximum of five hours will be compensated for the preparation of a normal criminal case.

A compensation of 100 euros per hour will also be paid for travelling time, if the return journey takes more than an hour and the one-way journey is longer than 20 kilometres. At present the travel and waiting time compensation is 72 euros per hour.

For cases heard in court attorneys will be guaranteed a minimum case-based fee which varies according to the duration of the hearing, the type of case and the court. In district courts the minimum fee payable to attorneys in criminal cases will be 400 euros and the fee for hearings lasting more than three hours 600 euros.

Persons with limited means will not need to present receipts when applying for legal aid

The working group will also simplify the procedure for application of legal aid. Those with the most limited means will no longer need to present receipts on their income, assets and debts. The legal aid office will check directly with the tax authorities the income of those whose legal aid is paid in full by the state. The current payment limit is 500 euros.

In the case of the accused in a criminal case, legal aid will in the future be granted solely on the basis of the income of the applicant. The income and assets of the spouse will thus no longer influence the granting of legal aid.

The reforms will form the foundation for an electronic processing system

The amendments proposed by the working group will enable a shift to electronic case processing and the development of an electronic case processing system. The applicant will be able to draft and send his or her application on the Internet.

The aim is to ease the work of the Legal Aid Offices and the courts and, at the same time, to make them more efficient. A uniform electronic form for the application of legal aid, decision-making and payment will be created. The same document can then be used at different stages and the same data do not have to be repeatedly fed into the data systems. The working group also proposes that the attorney submit an electronic lump sum bill in addition to the currently submitted itemised bill. The shift to an electronic system will be discussed in greater detail in another working group.

Government expenses will be unaffected

According to the working group the state cannot achieve any significant savings by changing the criteria for fees to be paid to private attorneys without endangering the legal safeguards and reducing the number of people eligible to receive legal aid.

The effects of these proposals work in two directions. On the one hand, the costs for short sessions in criminal cases will be lower, since the fee paid on the basis of them is lower than the fixed fee paid today. On the other hand, the higher hourly fee and compensation for travelling time will raise the costs. All in all the fees and compensations will remain at the same level as at present.