

# INTERNATIONAL LEGAL AID GROUP CONFERENCE: 8 TO 10 JUNE 2005 – KILLARNEY, IRELAND NATIONAL REPORT – 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. **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 applicants first contact 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, 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 the 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. Since June 2002,

the task of granting legal aid through the Legal Aid Offices, was extended to those legal aid applicants, who wish to have a private attorney appointed. Before this the Legal Aid Offices only granted legal aid to their own clients.

With population of about 5,2 million, and area about 340 000 km<sup>2</sup>, Finland has 66 Legal Aid Offices, which are located mainly in municipalities with a district court. The Legal Aid Offices have 16 branch offices and 112 branch clinics where clients are seen as required.

The Legal Aid Offices are small: they have from 4 to 26 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 of legal aid may choose which legal aid office they wish to use.

The offices are divided to six legal aid districts. One regional Director of Office is appointed a Director of 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 of 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 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.

### **Impact of the activity 2004 - 2005**

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. For instance, the newly established Legal Aid Office for the Capital Region will begin operations in the autumn of 2005.

The experiment with legal advice over the telephone will be continued and expanded to new offices in the autumn of 2005. The advice is provided by experienced Public Legal Aid Attorneys. In addition, following the tsunami disaster in the Indian Ocean on 26 December 2004, the Ministry of Justice opened a nationwide telephone service on 1 February 2005, with legal advice on issues arising from the disaster being provided by designated Public Legal Aid Attorneys from four offices.

Another experiment, to begin in the autumn of 2005, will be the road sign service offered in a few Legal Aid Offices. 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.

The waiting times in the Legal Aid Offices were monitored during 2004. A poll of waiting times was carried out in the offices six times over the course of the year. The monitoring will continue, with the objective of laying down a waiting time target during 2006. The idea is to develop a metric for measuring the development of the operations of the Legal Aid Offices.

The implementation of the legal aid reform that entered into force in June 2002 is being followed up. The follow-up and evaluation is conducted by the Research Institute for Legal Policy, in a research project which began in 2003 and will continue until the end of 2005. At the planning stage, it was decided that the focus of the study would be 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. The interim report of the study project "Köyhäinavusta kansalisoikeudeksi" (*From Poor Relief to Entitlement*) (link: <http://www.om.fi/optula/30433.htm>) was issued in February 2005.

One of the targets set for the Legal Aid Offices in the results negotiations for 2005 was the preparation of a personnel plan. The personnel plan must be drafted in accordance with the Human Resources Strategy of the Ministry of Justice sector for 2004-2007. It is the objective of the strategy to support the implementation of the Legal Policy Strategy and to improve wellness at work in the agencies within the

sector.

The Human Resources Strategy consists of four main activities, namely the development of leadership skills, the development of competences and staffing levels, wellness at work and the processes of human resources management. The Legal Aid Directors and the all of the Legal Aid Offices have been supplied with the personnel plan form OM 7/129/2005, which is to be filled in and returned to the Ministry by the end of April 2005. The personnel plans in the legal aid sector will then be taken up for discussion in conferences between Ministry officials and Leading Public Legal Aid Attorneys. The skills and competences inventory of the personnel in the offices and the assessment of development needs will be completed in 2006 as a part of the implementation of the

Human Resources Strategy of the Ministry of Justice. A time and attendance monitoring system has been in use in all of the Legal Aid Offices since the beginning of 2005

## Operational efficiency in the Legal Aid Offices

Table 1. Operational outlays and targets

### EFFICIENCY

#### OUTLAYS

(1000 €)

Legal Aid Offices

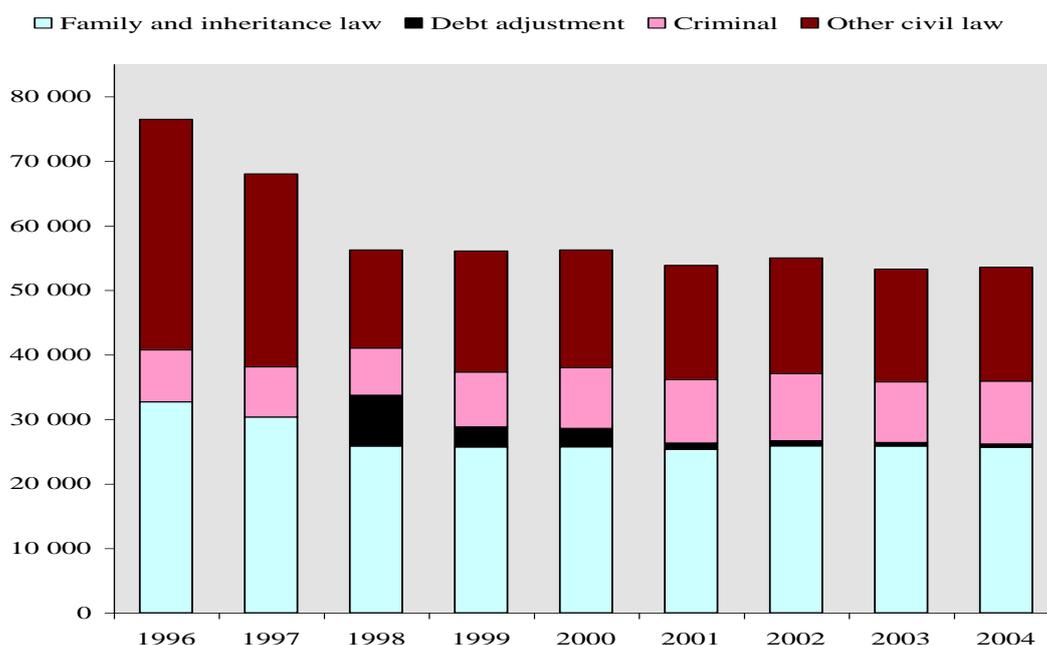
	2002	2003	2004	Comp. to year 2003	Target 2004	Chan- ge % target
Revenue						
<i>Services subject to a charge</i>	3 208	3 565	3 918	10 %	3 145	25 %
Costs	21 778	22 261	22 685	2 %	22 691	0 %
<b>Total net outlays</b>	<b>18 570</b>	<b>18 696</b>	<b>18 767</b>	<b>0 %</b>	<b>19 546</b>	<b>-4 %</b>
<i>Main operational targets</i>						
<b>Cost-effectiveness</b> (outlays/completed case unit)	<b>86</b>	<b>84</b>	<b>79</b>	<b>-6 %</b>	<b>82</b>	<b>-4 %</b>
<b>Productivity</b> (completed case unit/person working year)	<b>467</b>	<b>483</b>	<b>514</b>	<b>6 %</b>	<b>528</b>	<b>-3 %</b>

## Outputs and quality control in the Legal Aid Offices

In 2004, the Public Legal Aid Offices received a total of 53,544 cases. The number of incoming cases was at the same level as in 2003, also with regard to the breakdown of case types. It had been estimated that there would be an increase of 2 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, 49 per cent concerned family and inheritance law, 1 per cent concerned debt adjustment for private individuals and 33 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, 1996-2004



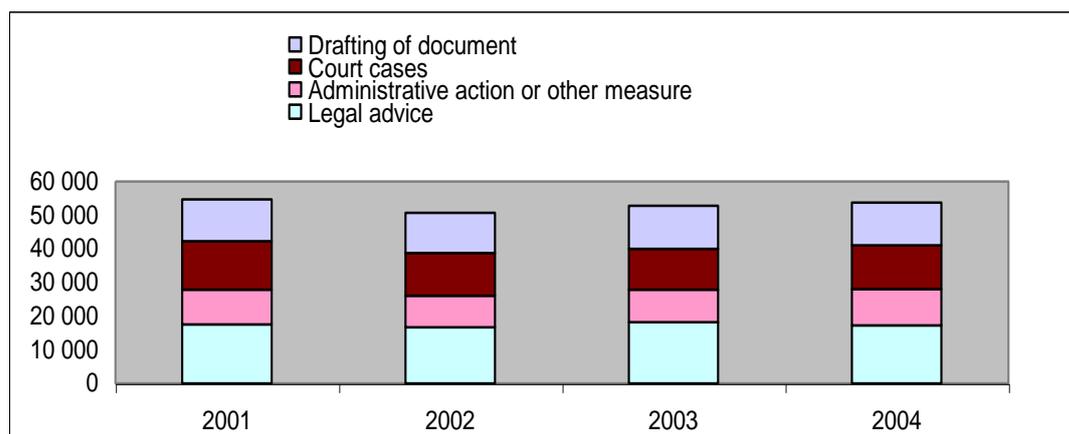
In 2004, the Legal Aid Offices dealt with a total of 53,766 cases, which is an increase of 3 per cent from 2003. The target set for closed cases was achieved. Of the cases dealt with by the Legal Aid Offices in 2004, 32 per cent were closed with legal advice being given, 24 per

cent with a document being drafted, 24 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 entering court proceedings pertain to divorce, child custody and maintenance

Table 2. Cases dealt with in the Legal Aid Offices, 2001-2004

	Advice	Others	Court cases	IN ALL (units)
<b>2001</b>	32 %	41 %	26 %	54 651
<b>2002</b>	33 %	42 %	25 %	50 715
<b>2003</b>	34 %	43 %	23 %	52 796
<b>2004</b>	32 %	44 %	24 %	53 766

Figure 3. Cases dealt with in the Legal Aid Offices, 2001-2004



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 2004, the Legal Aid Offices issued a total of 23,074 legal aid decisions and carried out 1,755 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 2004 was 11.04 days

Table 3. Outputs and quality control in the Legal Aid Offices

### OUTPUTS AND QUALITY CONTROL

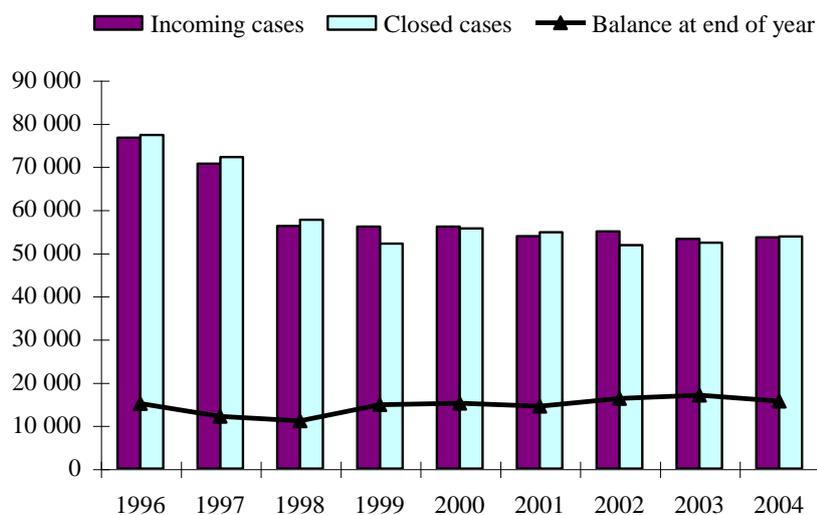
#### Legal Aid Offices

	2002	2003	2004	Comp. to year 2003	Target 2004	Comp. to target
Incoming cases	54 981	53 240	53 544	1 %	54 798	2 %
Cases carried over to the following year	16 175	17 039	15 883	-7 %	18 236	15 %

#### Main operational targets

<b>Closed cases</b>	<b>51 773</b>	<b>52 317</b>	<b>53 766</b>	3 %	<b>53 617</b>	<b>0 %</b>
Legal aid decisions (units)	14 023	22 109	23 074	0	22 119	-4 %
Queuing time (days)			11,04			

Figure 4. Workload at the Legal Aid Offices



## Management and development of human resources

Table 4. Human resources 2002-2004

	Realization 2002	Realizati on 2003	%	Realizati on 2004	%
<b>Staffing level and structure</b>					
Person-years worked (incl. employees and trainees from higher education)	<b>465,39</b>	<b>446,92</b>		<b>461,42</b>	
Numbers of staff	<b>491</b>	<b>490</b>		<b>480</b>	
Women	369 75 %	370 76 %		363 76 %	
Men	122 25 %	120 24 %		117 24 %	
Officials in permanent position	421 86 %	431 88 %		431 90 %	
Officials in temporary position	70 19 %	59 16 %		49 13 %	
Mean age	46,4 38 %	47,0 39 %		47,7 41 %	
Proportion of over-45s	61,7 13 %	63,7 13 %		67,5 14 %	
<b>Wellness at work</b>					
Job-leaving %	2,8	2,1		2,1	
Entry %	12,7	11,8		8,6	
Disability pension %	0,9	0,4		0,6	
Absences for illness, working days/pyw	8,44	9,49		9,06	

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.

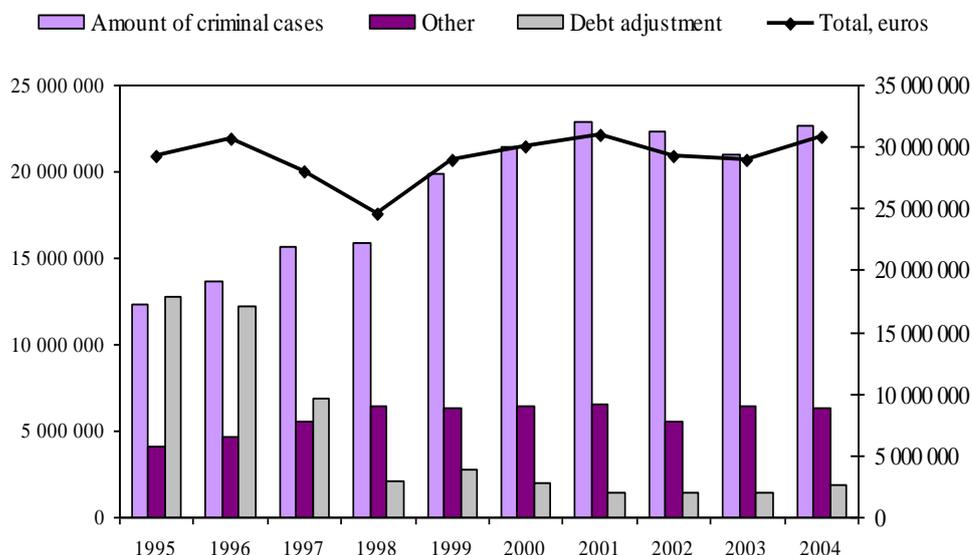
A job satisfaction survey was taken in the Legal Aid Offices in 2003 and 2004. On both occasions, the response rate was around 60 per cent and the results overall were quite positive. The principles of KAIKU, the wellness at work programme, continue in application; for instance, the Legal Aid Office of Espoo has instituted a Kaiku project pertaining to age management.

### 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 2004, the fees and expenses paid to private attorneys amounted to EUR 28.9 million, an increase of 6 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). In addition, the number of criminal cases in the District Courts has increased by 7 per cent year-on-year.

Private attorneys were appointed for 33,117 recipients of legal aid, an increase of 6 per cent on 2003. The average costs per recipient were EUR 873, no change from the preceding year. Of the costs of legal aid provided by private attorneys, 79 per cent originate from the District Courts, 17 per cent from the Courts of Appeal and 4 per cent from other courts.

Figure 5. Costs paid to private attorneys and arising from debt adjustment cases, 1995-2004



In 2004, some EUR 1.8 million was paid in fees to administrators under the Act on the Adjustment of the Debts of Private Individuals, an increase of 23 per cent on the preceding year. Criminal defendants acquitted by the

courts were paid a total of EUR 1.7 million in compensation for legal costs; the corresponding number in 2003 had been EUR 1.2 million.