CENTRAL EUROPEAN AND EURASIAN LAW INITIATIVE

LEGISLATIVE ASSISTANCE
AND
RESEARCH PROGRAM

ANALYSIS OF THE DRAFT LAW ON LEGAL AID
FOR THE REPUBLIC OF UKRAINE

PROMOTING THE RULE OF LAW
ANALYSIS OF THE DRAFT LAW ON LEGAL AID FOR THE REPUBLIC OF UKRAINE

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Analysis of the Draft Law on Legal Aid for the Republic of Ukraine
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Analysis of the Draft Law on Legal Aid for the Republic of Ukraine*

I. Introduction

This report analyzes the draft Law on Legal Aid of the Republic of Ukraine. It aims to identify controversial aspects and shortcomings of the draft law, as well as to draw attention to the proposed legislation’s positive attributes. The draft law is assessed in terms of its compliance with international standards regarding the provision of legal aid, as set forth in the *European Convention of Human Rights*¹, the *United Nations International Covenant on Civil and Political Rights*², and the Council of Europe’s recommendations on legal aid. This report offers general commentary and specific recommendations for modification of the draft law based on these standards as well as American practices. It is offered in the spirit of cooperation and collaboration toward supporting the rule of law in Ukraine.

II. International Standards

The *European Convention of Human Rights* provides international standards in the field of legal assistance. Article 6 guarantees the right to a fair trial of the convention, including the right to free legal representation for those individuals who do not have the means to pay, when such is required in the interest of justice. Although Article 6 focuses mainly on criminal procedure, the European Court of Human Rights has held that Article 6 may compel states to provide free legal assistance in civil matters when such assistance proves indispensable for effective access to the courts, either because legal representation is mandatory under domestic law or because of the complexity of procedure or the case (European Court of Human Rights, September 11, 1979, *Airey v. Ireland*).

Access to legal assistance is also addressed in the *United Nations International Covenant on Civil and Political Rights* (ICCPR), specifically in Article 14, para.3 (d):

“In determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

…

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of his right; and to have legal assistance assigned to him, in any case where the interests of justice so require and without payment by him in any such case if he does not have sufficient means to pay for it.”

* Compiled by Elena Toshkova, CEELI Legal Analyst.
In Communication 928/2000 Sooklal v. Trinidad and Tobago\(^3\), the United Nations Human Rights Committee, charged with monitoring and enforcing the principles of the covenant, goes even further by considering the quality of the service of legal aid lawyers as an essential part of the legal assistance process. The committee declared that the failure of a legal aid lawyer to inform his client about his intention not to file an appeal violated the right to quality legal assistance inherent in Article 14, para.3 (d) of the ICCPR. The statements of the Human Rights Committee are authoritative source of interpretation of the treaty.

The United Nations also addressed the issue of legal aid in the *Basic Principles on the Role of Lawyers*\(^4\), which was endorsed by the General Assembly in 1990. This document sets forth minimum standards that should be considered by members of the international community when developing legislative and administrative frameworks for the establishment, organization, and operation of the legal profession. Principles 3 and 4 of the *United Nations Basic Principles on the Role of Lawyers* advocate that special attention be given to ensuring that economically disadvantaged persons are able to call upon the assistance of lawyers for the protection of their rights and freedoms.

The drafters may also wish to note the Council of Europe Committee of Experts on Efficiency of Justice in *Recommendation 2000 (21) on the Freedom of Exercise of the Legal Profession*\(^5\). Within the Council of Europe, it is voluntarily agreed that lawyers should make their services available to all sectors of society and that equal access to the law for rich and poor is essential for the maintenance of the rule of law. It is essential to provide effective legal services to all those whose rights are threatened, including persons who are unable to pay for it. The primary obligation to provide these services and to guarantee their quality resides with the legal profession and arises from its independence.

The Council of Europe has developed a complex body of principles and rules in the field of access to justice and legal aid, which should inspire the national legislators when dealing with this problem. *Resolution 78(8) on Legal Aid and Advice* contains certain principles concerning legal aid and legal advice that member States should apply progressively. The resolution states, “no one should be prevented by economic obstacles from pursuing or defending his right before any court determining civil, commercial, administrative, social or fiscal matters”. The Council of Ministers also recommended that the governments of member States “facilitate the effective access to the law for the very poor” by facilitating their effective access to quasi-judicial methods of conflict resolution and their effective access to the courts (*Resolution 93 (1) on Effective Access to the Law and to Justice for the Very Poor*).

The Council of Europe’s *Agreement on Transmission of Applications for Legal Aid*\(^6\) extends the right to legal aid by providing that residents of one State party may apply for legal aid for all types


\(^6\) *Council of Europe’s Agreement on Transmission of Applications for Legal Aid*, January 27, 1977, available at
civil and administrative proceedings within the territory of another state party. For this purpose, the State parties are required to designate special authority to receive and transmit applications for legal aid. The Additional Protocol to that agreement guarantees the right to legal aid concerning the procedure for granting legal aid and the communication between lawyers and applicants, among others. Although the Republic of Ukraine is not a signatory, the drafters may find it informative when considering the present draft law.

Finally, as a Signatory State of the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against torture and other Cruel, Inhuman and Degrading Treatment or Punishment, and the Convention on the Right of the Child, the Ukrainian authorities should be cognizant of these treaties when considering the present draft law. All these conventions contain provisions related to the legal aid matters within their particular subject areas.

III. General Assessment

Ukraine should be commended for attempting to establish a legal aid law for civil and criminal representation. The draft Law on Legal Aid for the Republic of Ukraine provides a general comprehensive framework for the establishment and regulation of a legal aid system in Ukraine. It also sets forth detailed criteria for obtaining guaranteed legal aid and for legal aid quality standards. Overall, the draft goes a long way towards establishing a quality legal aid system.

However, the existence of certain shortcomings may undermine some of the draft law’s more positive attributes. The draft law could be strengthened by considering revisions in the following areas: the administration of legal aid, standards for delivery of legal aid, access to legal aid procedure, and financing of legal aid. The draft law also suffers from the use of vague and imprecise language, and from the lack of essential protections and capacities for the legal aid subjects and providers. These weaknesses may give rise to abuse by state authorities or simply impede the eventual law’s implementation. The drafters may wish to consider addressing these areas in order to create a more effective law on Legal Aid in Ukraine.

IV. Administration of Legal Aid

The draft law grants highly centralized control over the administration of legal aid services to the Ministry of Justice. For example, numerous articles of the draft law provide the Ministry with final decision-making authority. In the present draft, the Ministry is empowered to approve legal aid quality standards, license and monitor business activities related to provision of legal services, and has the discretion to grant an approval for guaranteed legal aid through its territorial bodies (“councils”). An executive authority may naturally have a final voice in the broadest policy aspects of any legal aid or other governmental programs, particularly where there are public expenditures involved. However, the draft should explicitly contain some basic guidelines and minimum protections to counterbalance the high degree of state control.

An alternative approach to this system is the establishment of a quasi-independent body, such as a Commission on Legal Aid, that is answerable to the Government but that exercises independent judgment and responsibility within the parameters established by the legislation. Membership in such a body can be defined in the legislation to ensure that a broad range of voices from the legal community have representation. The supervision of the legal aid system can then be overseen by this commission rather than within the confines of the Ministry itself, thus likely avoiding some bureaucratic entanglements and immediate political pressures. The policies and procedures developed by the Commission are, subject to final approval by the Executive and Legislative branches. (See, for example, the U.K. Access to Justice Act 1999).

V. Standards for Delivery of Legal Aid

A. Quality Standards for Legal Services

The draft law under consideration gives considerable attention to quality standards in Article 4. While this is in many ways admirable, the draft law should be more specific as to the specific issues that should be covered by such quality standards. Categories such as provider relations with clients, fees and costs, internal systems and procedures for effective delivery of legal services and provider effectiveness, and quality assurances need to be covered by the law.

Finally, since issues of quality control are of critical importance when assessing the effectiveness of legal aid system in a rule of law state, an explicit guarantee to high quality legal aid services should be included in the draft law.

B. Professional Standards and Ethics Rules

Most legal aid laws include specific protection for and reference to attorney professional norms. For example, the US Legal Services Corporation Act provides that “attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with...ethics rules and the high standards of the legal profession.” The act further states: “The Corporation shall not, under any provision of this subchapter, interfere with any attorney in carry out his professional responsibilities to his client as established in...ethical codes of the American Bar Association...”

12 Ukrainian Draft Law on Legal Aid, Article 4, “Legal Aid Quality Standards”.
Accordingly, it is important to assure that the draft law is in harmony with the Law on the Legal Profession of Ukraine and the Ukrainian Codes of Professional Conduct for Advocates. These professional standards are not reflected in the draft law, although it would be useful to explicitly incorporate both the concept of professional norms and the prohibition regarding interference with those norms by third parties. Third parties would include the Ministry of Justice, the “councils for the provision of guaranteed legal aid” (art. 18) and others involved in administering legal aid.

C. Confidentiality of Attorney-Client Communications

Most legal aid laws explicitly acknowledge the need for confidentiality in attorney-client communications. As such, many legal aid laws (such as the Legal Services Corporation Act) prohibit the funding source from obtaining information that is otherwise protected by ethical or evidentiary rules for preserving the confidentiality of attorney-client communications. There are three main issues that the drafters should consider when revising the law. First, the actual setting for communication between the attorney and client should be sufficiently private that attorney client communications are not overheard by others and remain private and confidential. Second, the legal aid attorney should be required to keep such communications confidential consistent with ethical rules on confidentiality. Third, the funding source, such as the Ministry of Justice or the “councils for the provision of guaranteed legal aid” should be prohibited from obtaining information that is protected by confidentiality norms or evidentiary rules. While not all of these issues need to be addressed in a legal aid law, there should be an explicit reference to confidentiality and some provision to protect against forced disclosure to a funding source or other third party.

VI. Access to Legal Aid

A. Regulation of Providers of Legal Aid Services

The draft law establishes a private attorney legal aid system that operates on “contractual basis” (Article 12) between the Ministry of Justice and the provider. The government, who is the funder, plays a key role in deciding who will be funded to provide services, what specific services should be provided, and the eligibility of clients for the services. Most European countries operate on this model, primarily by paying private attorneys to deliver specific civil and criminal legal services. The Ukrainian legal aid system follows the European example and this is a rational choice.

However, in this situation the providers are highly regulated by the Government (the funder). Specific attention should be paid to the fact that the funder (the Government) decides what specific cases and activities the grantees will undertake. This situation can have a significant impact on the effectiveness of the legal services. The drafters should consider the possibility of creating a non-profit entity in charge of collecting and distributing funds to various legal aid providers (the grantees). In this case, the funder may monitor and evaluate the grantees and may have a system of competition to choose the grantees, but the funder would not decide what specific cases the grantees will carry out. The grantees administer intake, establish eligibility, and oversee the day-to-day operation of the program.

Furthermore, the draft law takes a somewhat incomplete approach towards determination of the types of providers. Article 5 lists several types of providers that the Government will fund, but it does not seem to include civil legal aid staff attorney organizations, which are present in many countries operating a private attorney legal aid system. It would be beneficial to add this type of
organizations to the list of possible providers in Article 5, even though there may be no such groups yet operating in Ukraine. A reference to staff attorney organizations could also be added to Article 21.

Finally, guaranteeing high quality, efficient, and effective legal assistance implies the organization of a system of support and training for providers. The law could be strengthened by the inclusion of provisions requiring that training, technical assistance, information dissemination, and other support services be made available to providers. It is of particular importance for providers to be specifically trained in areas of law that involve low-income persons and other targeted groups.

**B. Legal Aid Procedure Issues**

The fundamental purpose of the legal assistance programs is to enable low-income persons to have access to the law and to the justice system. While this idea is present in the Ukrainian draft Law on Legal Aid, the statute does not underline the concept that applicants, and ultimately clients, need to have relatively equal access to providers. The Legal Services Corporation Act, for example, requires that when providers determine their priorities for service they take into account “particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services and their special legal problems…” The drafters may wish to explicitly mention this notion in the law.

Articles 16, 17, and 18 of the draft law set forth the criteria for eligibility and establish the procedure under which councils for the provision of guaranteed legal aid would authorize legal aid, subject to a review by the Ministry of Justice or court. What may be missing in the draft is a clear directive to an authority (presumably the Ministry of Justice) to issue public, detailed, written guidelines for legal aid procedures. These should include procedures determining who is eligible, what documents are necessary to establish eligibility, mandatory participation by judicial officers, and how the exercise of discretion given to the councils for the provision of guaranteed legal aid would be exercised. In relation to the administration of the procedure, it is worthy to mention that the draft does not authorize any emergency procedure when immediate representation is needed. The types of cases usually falling under this procedure are custody battles, child support cases, domestic violence, housing problems, etc. In addition, there does not appear to be a way to file the legal aid applications electronically or over the phone. The drafters may wish to consider the implications of not authorizing these options, namely inefficiency and delays in the application process.

Finally, the draft’s law provision on refusal could be improved by requiring that the rejection of an application for guaranteed legal aid must be written and must include the grounds for rejection. This would provide the basis for an appeal. With respect to the termination of provision of guaranteed legal aid (Article 22) and, more specifically, the termination in the course of representation, this provision should offer some safeguards for the clients so that critical representation can continue while the attorney terminates his services. An example are the US Legal Services Corporation regulations guiding legal aid providers to take into account the consequences to the client if premature termination of service would adversely affect the client and the ethical rules on withdrawal.
VII. Financing of Legal Aid

Article 23 provides for the establishment of a special budgetary fund for legal aid. Sources for the fund include filing fees, licensing fees, bar registration fees, attorneys’ fees, and grants. These funding sources are common in many legal aid systems, but standing alone these sources are unpredictable in terms of consistency and the amount of funding. What appears to be missing in the legislation is a provision for general revenue funding from the state treasury. Therefore, it is of particular importance for the drafters to include an article authorizing direct government funding for legal aid. Without government funding as a core element of the funding stream, the proposed legal aid system is at risk of falling short of the goal of “guaranteed legal aid” set forth in Article 16. It would be very difficult for a high quality delivery system to be designed without direct government funding to ensure at least a minimal level of legal services and supporting infrastructure (e.g., training, community education).

In addition, drafters may want to include language that encourages bar associations and other groups to raise money privately to support legal aid. In staff attorney operating systems, most of the private funds are raised by state or local legal aid organizations. Since Ukraine’s draft law seems to be contemplating a private model of delivery, it would be more difficult to encourage private funding to support private sector contracts. In addition, as in most European countries, Ukraine does not have a highly developed culture of private philanthropy. Nevertheless, private funding should be encouraged and considered as another way to expand and diversify funding for legal aid.

VIII. Conclusion

The Ukrainian policymakers have undertaken a considerable effort to ensure the proper administration of justice by drafting the law on Legal Aid. The existence of such a law would bring justice closer to the people of Ukraine by providing all of its citizens with access to legal assistance. At the same time, the law will establish the necessary procedures and eligibility requirements of a state funded legal aid system. However, there are areas of the draft, such as the eligibility requirements for obtaining legal aid, the regulation of providers, the role and responsibilities of the State authority that should be revised in order to allow a successful implementation.
Appendix A

Biographical Statements of Experts Assessing the Draft Law
Biographical Statements of Experts Assessing the Draft Law

Bonnie Allen

_ Bonnie Allen _ is Executive Director of Just Neighbors Immigrant Ministry, Inc., a community-based organization providing immigration legal services and advocacy on behalf of low-income immigrants in Northern Virginia. Prior to joining Just Neighbors in July 2003, Ms. Allen served as Director of Outreach and Community Support at the National Legal Aid and Defender Association (NLADA) in Washington, D.C., where she spearheaded efforts to strengthen the national and regional capacity of the civil legal aid system through resource development, communications and leadership development. While at NLADA, Ms. Allen also co-directed the Project for the Future of Equal Justice, a joint initiative of NLADA and the Center for Law and Social Policy funded by the Ford Foundation and the Open Society Institute. Previously, she directed the American Bar Association Center for Pro Bono. A 1984 graduate of the University of Florida School of Law, Ms. Allen also holds a Master's Degree in Theological Studies from Garrett-Evangelical Theological Seminary, a United Methodist divinity school affiliated with Northwestern University in Evanston, Illinois.

Alan Houseman

_ Alan W. Houseman _ is Executive Director of the Center for Law and Social Policy (CLASP) and has held that position since 1982. His current work focuses on innovative anti-poverty strategies and the long-term future of civil legal assistance in the United States. Mr. Houseman has been actively involved in federal and state welfare reform issues since 1965 and has worked on health care and family policy issues since the early 1970s. During law school, he was Assistant Director (nationally) of the Law Students Civil Rights Research Council and worked closely with Ed Sparer at the Welfare Law Center. Between 1968 and 1976, he was General Counsel for the Michigan Welfare Rights Organization and co-chair of the legal committee of the National Welfare Rights Organization.

Mr. Houseman also has a long history of involvement in poverty law advocacy and in legal services for the poor. In 1968, he was a Reginald Heber Smith Fellow with Wayne County Neighborhood Legal Services. In 1969, he founded Michigan Legal Services, a statewide legal services program which represented poor people's organizations on welfare, health, housing, consumer, prison, mental health, education, and family policy issues. Between 1976 and 1981, he was a member of the senior staff at the Legal Services Corporation and director of the Research Institute, which Mr. Houseman founded and developed. He has written numerous articles, manuals, papers and books on legal services and poverty law advocacy as well as articles and manuals on welfare policies. In addition to directing the staff of CLASP, Mr. Houseman is on numerous committees of the American Bar Association and has been Mr. Houseman an Adjunct Professor at Georgetown University Law Center and has previously taught at Wayne State University Law School and the University of Michigan Law School. He is a graduate of Oberlin College and New York University School of Law, where he was a Field Fellow in Social Welfare Law (as part of the Hays Civil Liberties Fellowship Program).
Phyllis Cox

Phyllis Cox received a Bachelor degree from Harvard University, a Master degree from Fletcher School of International Law and Diplomacy and a J.D. from University of Denver College of Law. She has been working as a legal advisor in various international development projects in Bangladesh, Rwanda, Guyana, Haiti, and Cambodia. In Cambodia, she directed a Legal Aid Project for the Legal Aid of Cambodia. She is also a contributor to Manual on International Legal Aid. Prior to embarking on a career in international development, Ms. Cox practiced law for more than twenty years in the areas of civil litigation. Ms. Cox has been actively involved in different community activities in the United States as a member of the State of Colorado Board of Health and Rocky Mountain Women’s Institute.

Cait Clarke

Cait Clarke, B.S., J.D., S.J.D. is the Director of the National Defender Leadership Institute (NDLI) at the National Legal Aid and Defender Association in Washington, D.C. Prior to joining NLADA she was with Harvard’s John F. Kennedy School of Government’s Program in Criminal Justice, Policy and Management in Cambridge, Massachusetts where she managed a three-year Bureau of Justice grant to sponsor the “Executive Session on Public Defense” (ESPD). The ESPD process involved experts from across the country working to reconstruct the role of indigent defense practices in the American criminal justice system. As a Research Associate and Adjunct Lecturer at the Kennedy School she taught a community justice course that explored current public policy and legal issues in criminal justice. In addition, she served as Special Assistant to the Director of the Graduate Program at Harvard Law School.

Ms. Clarke’s prior experience has also included an Associate Professorship of Law at the Loyola University School of Law in New Orleans, a Prettyman Fellow and clinical instructor in the Criminal Justice Clinic at the Georgetown University Law Center, and law clerk to the Honorable John A. Terry of the District of Columbia Court of Appeals. Ms. Clarke has practiced and taught law abroad in various capacities over the past ten years. She studied at Tokyo University and worked in a Japanese law firm. She has taught criminal law and constitutional law in in Cuernavaca, Mexico; Moscow, Russia; and, Budapest, Hungary. Ms. Clarke has published articles and chapters on criminal justice topics and community-oriented public defense programs. Her current research and writing projects focus on ethics in problem-solving lawyering and client-centered sentencing advocacy. Ms. Clarke graduated from Catholic University School of Law, Washington, DC. She also obtained a LLM degree from Georgetown University Law Center and S.J.D degree from Harvard Law School.

James Moore

James Moore entered in private practice in 1966 after graduating from Cornell Law School in Ithaca, New York. He focuses in civil litigation practice primarily in the areas of architects and engineers liability, products liability, construction and insurance coverage. His professional activities include also lecturing law (Labor Law, Professional Liability, Contract Negotiation, Products Liability) in Rochester Institute of Technology and to various professional associations. He has authored more than more than 30 articles and book chapters. Mr. Moore is a current member of the American Bar Association’s Standing Committee on Legal Aid.
Appendix B

Council of Europe

Recommendation on Effective Access to the Law and to Justice for the Very Poor
COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

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RECOMMENDATION No. R (93) 1

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

ON EFFECTIVE ACCESS TO THE LAW

AND TO JUSTICE FOR THE VERY POOR

(adopted by the Committee of Ministers on 8 January 1993
at the 484ter meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

1. Recalling that, under the European Convention on Human Rights, member States proclaimed their attachment to human rights and fundamental freedoms;

2. Referring to Resolutions (76) 5 on legal aid in civil, commercial and administrative matters and (78) 8 on legal aid and advice, to Recommendation No. R (81) 7 of the Committee of Ministers to member States on measures facilitating access to justice and to the United Nations Resolutions on human rights and extreme poverty, in particular Resolution 46/121 of 17.12.1991 of the General Assembly and Resolution 1992/11 of 18.2.1992 of the Commission on Human Rights, as well as to the study prepared by the

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1 When this Recommendation was adopted, and in application of Article 10.2.c. of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representative of Austria reserved the right of his Government to comply with it or not.
International Movement ATD-Fourth World entitled "Towards justice accessible to all: legal aid machinery and certain local initiatives as seen by families affected by severe poverty" [H(92)2];

3. Concerned at the situation of the very poor, understood to mean persons who are particularly deprived, marginalised or excluded from society both in economic and in social and cultural terms;

4. Considering that this situation of severe poverty continues to deprive men and women of the effective enjoyment of human rights which must be secured for all without distinction, in accordance with Article 14 of the European Convention on Human Rights;

5. Convinced that efforts to promote access to the law and to justice will only be fully effective as part of a comprehensive, coherent and forward-looking policy aimed at combating severe poverty in co-operation with the population groups concerned;

6. Recalling the principle of the indivisibility of human rights which implies that the enjoyment of civil and political rights such as those enshrined particularly in Articles 6(3)c and 13 of the European Convention on Human Rights is not effective if economic, social and cultural rights are not equally protected;

7. Reaffirming that attachment to human rights is linked to respect for human dignity, especially as regards access to the law and to justice for the very poor;

8. Recalling that in addition to the right of access to the law and to justice provided for in Article 6 of the European Convention on Human Rights, the other provisions of the Convention and particularly Articles 2, 3 and 8 are equally applicable to the very poor, as are the other legal instruments of the Council of Europe such as the European Social Charter;

9. Considering that this Recommendation is intended to improve, especially with regard to the very poor, existing legal advice and legal aid systems, and therefore to
complement existing machinery with regard to the other categories of people for which the systems were designed,

Recommends that the governments of member States

I. Facilitate access to the law for the very poor ("the right to the protection of the law") by:

   a. promoting, where necessary, action to make the legal profession aware of the problems of the very poor;

   b. promoting legal advice services for the very poor;

   c. defraying the cost of legal advice for the very poor through legal aid, without prejudice to the payment of a modest contribution by the persons benefiting from such advice where this is required by domestic law;

   d. promoting the setting up where the need seems to appear of advice centres in underprivileged areas;

II. Facilitate effective access to quasi-judicial methods of conflict resolution for the very poor by:

   a. increasing the involvement of non-governmental organisations or voluntary organisations providing support to the very poor in quasi-judicial forms of conflict resolution such as mediation and conciliation;

   b. extending the benefit of legal aid or any other form of assistance to such methods of conflict resolution;
III. Facilitate effective access to the courts for the very poor, especially by the following means:

   a. extending legal aid or any other form of assistance to all judicial instances (civil, criminal, commercial, administrative, social, etc.) and to all proceedings, contentious or non-contentious, irrespective of the capacity in which the persons concerned act;

   b. extending legal aid to very poor persons who are stateless or aliens, in any event where they are habitually resident in the territory of the member State in which the proceedings are to be conducted;

   c. recognising the right to be assisted by an appropriate counsel, as far as possible of one's choice, who will receive adequate remuneration;

   d. limiting the circumstances in which legal aid may be refused by the competent authorities chiefly to those cases in which the grounds for refusal are inadmissibility, manifestly insufficient prospects of success, or cases in which the granting of legal aid is not necessary in the interests of justice;

   e. simplifying the procedure for granting legal aid to the very poor, and considering the immediate granting of provisional legal aid wherever possible;

   f. considering the possibility of enabling non-governmental organisations or voluntary organisations providing support to the very poor, to give assistance, in the context of access to the courts, to persons who are in a position of such dependence and deprivation that they cannot defend themselves; this appraisal should concern both proceedings before national tribunals and proceedings before the European Commission and Court of Human Rights and other international instances of judicial nature;

IV. Consult whenever possible, in the framework of their general policy aimed at combatting severe poverty, non-governmental organisations interested by the field
covered by the present Recommendation and voluntary organisations providing support to the very poor.
Appendix C
Council of Europe
Resolution on Legal Aid and Advice
COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

RESOLUTION (78) 8
ON LEGAL AID AND ADVICE

(Adopted by the Committee of Ministers on 2 March 1978
at the 284th meeting of the Ministers' Deputies)

The Committee of Ministers,

Considering that the right of access to justice and to a fair hearing, as guaranteed under Article 6 of the European Convention on Human Rights, is an essential feature of any democratic society;

Considering that it is therefore important to take all necessary steps with a view to eliminating economic obstacles to legal proceedings and that the existence of appropriate systems of legal aid will contribute to the achievement of this aim especially for those in an economically weak position;

Considering that the provision of legal aid should no longer be regarded as a charity to indigent persons but as an obligation of the community as a whole;

Considering that facilitating the availability of legal advice as a supplement to legal aid for persons in an economically weak position is of equal importance in the elimination of obstacles to access to justice;

Recommends the governments of member states to take or reinforce, as the case may be, all measures which they consider necessary with a view to the progressive implementation of the principles set out in the appendix to this resolution;
Invites the governments of member states to inform the Secretary General of the Council of Europe periodically of the measures taken to follow up the recommendation contained in this resolution.

Appendix to Resolution (78) 8

Part 1 - Legal aid in court proceedings

1. No one should be prevented by economic obstacles from pursuing or defending his right before any court determining civil, commercial, administrative, social or fiscal matters. To this end, all persons should have a right to necessary legal aid in court proceedings. When considering whether legal aid is necessary, account should be taken of:

   a. a person's financial resources and obligations;
   b. the anticipated cost of the proceedings.

2. Legal aid should be available even where a person is able to pay part of the costs of his proceedings. In that case, legal aid may be available with a financial contribution by the assisted person which shall not exceed what that person can pay without undue hardship.

3. Legal aid should provide for all the costs necessarily incurred by the assisted person in pursuing or defending his legal rights and in particular lawyers' fees, costs of experts, witnesses and translations.

   It is desirable that, where legal aid is granted, there should be exemption from any requirement for security for costs.

4. It should be possible for legal aid to be obtained in the course of the proceedings, if there is a change in the financial resources or obligations of the litigant or some other matter arises which requires the granting of legal aid.
5. Legal aid should always include the assistance of a person professionally qualified to practise law in accordance with the provisions of the state's regulations, not only where the national legal aid system always of itself so provides, but also:

   a. when representation by such a person before a court of the state concerned is compulsory in accordance with the state's law;

   b. when the competent authority for the granting of legal aid finds that such assistance is necessary having regard to the circumstances of the particular case.

The assisted person should, so far as is practical, be free to choose the qualified person he wishes to assist him. The person so appointed should be adequately remunerated for the work he does on behalf of the assisted person.

6. When considering whether legal aid should be granted, the authorities may:

   a. take into consideration, having regard to the circumstances of the particular case, whether or not it is reasonable for proceedings to be taken or defended;

   b. take account of the nature of the proceedings and, if need be, grant aid only for costs other than those relating to assistance by a qualified person as referred to in principle 5.

7. The legal aid system should provide for a review of a decision to refuse a grant of legal aid.

8. The responsibility for financing the legal aid system should be assumed by the state.

9. The limits of financial eligibility for legal aid should be kept under review, especially having regard to rises in the cost of living.
10. The legal aid system should provide for the granting of legal aid, in accordance with the principles contained in the present resolution, in any proceedings for the recognition or enforcement of a decision in the state concerned of a decision given in another state.

11. The state should take the necessary steps to bring the provisions of the legal aid system to the attention of the public and other interested parties, particularly those agencies in the state to which potential applicants might turn for help.

Part II - Legal advice

12. The state should ensure that a person in an economically weak position should be able to obtain necessary legal advice on all questions arising out of the matters mentioned in principle 1, which may affect his rights or interests.

13. Legal advice should be available either free or on payment of a contribution dependent on the resources of the person seeking the advice.

14. The state should ensure that information on the availability of legal advice is given to the public and to those to whom a person in need of legal advice may turn for help.

15. The state should take appropriate steps to see that such information on the legislation of the state as is necessary is available to advice-giving agencies.

16. The state should pay particular attention to the need for legal advice when proceedings may have to be taken in another state.
Appendix D

European Agreement on the Transmission of Applications for Legal Aid
EUROPEAN AGREEMENT ON THE
TRANSMISSION OF APPLICATIONS
FOR LEGAL AID

Strasbourg, 27.I.1977

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that it is desirable to eliminate existing economic obstacles to civil proceedings and to permit persons in an economically weak position more easily to exercise their rights in member States;

Believing that the creation of an appropriate system of transmission of applications for legal aid would contribute to the attainment of this aim,

Have agreed as follows:

**Article 1**

Every person who has his habitual residence in the territory of one of the Contracting Parties and who wishes to apply for legal aid in civil, commercial or administrative matters in the territory of another Contracting Party may submit his application in the State where he is habitually resident. That State shall transmit the application to the other State.
Article 2

1. Each Contracting Party shall designate one or more transmitting authorities to forward applications for legal aid direct to the foreign authority designated below.

2. Each Contracting Party shall also designate a central receiving authority to receive, and to take action on, applications for legal aid coming from other Contracting Parties. Federal States and States which have more than one legal system shall be free to designate more than one authority.

Article 3

1. The transmitting authority shall assist the applicant in ensuring that the application is accompanied by all the documents known by it to be required to enable the application to be determined. It shall also assist the applicant in providing any necessary translation of the documents.

   It may refuse to transmit the application if it appears to be manifestly not made in good faith.

2. The central receiving authority shall transmit the application to the authority which is competent to determine the application. It shall inform the transmitting authority of any difficulty relating to the examination of the application and of the decision taken on the application by the competent authority.

Article 4

All documents forwarded in pursuance of the present Agreement shall be exempt from legalisation or any equivalent formality.

Article 5
No charges shall be made by the Contracting Parties in respect of services rendered under this Agreement.

Article 6

1 Unless there are particular agreements between the authorities concerned of Contracting Parties and subject to the provisions of Articles 13 and 14:

a the application for legal aid and the documents attached thereto and any other communications shall be drawn up in the official language or in one of the official languages of the receiving authority or be accompanied by a translation into that language;

b each Contracting Party shall nevertheless accept the application for legal aid and the documents attached thereto and any other communications when they are drawn up in English or in French or are accompanied by a translation into one of these languages.

2 Communications emanating from the State of the receiving authority may be drawn up in the official language or one of the official languages of that State or in English or French.

Article 7

In order to facilitate the application of this Agreement the central authorities of the Contracting Parties agree to furnish each other with information on the state of their law governing legal aid.

Article 8

The authorities referred to in Article 2 shall be designated by means of a declaration addressed to the Secretary General of the Council of Europe when the State concerned becomes Party to the Convention in accordance with the provisions of
Articles 9 and 11. Any change in the powers of the authorities shall likewise be declared to the Secretary General of the Council of Europe.

**Article 9**

1 This Agreement shall be open to signature by the member States of the Council of Europe, who may become Parties to it either by:

   a signature without reservation in respect of ratification, acceptance or approval;

   b signature with reservation in respect of ratification, acceptance or approval followed by ratification, acceptance or approval.

2 Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

**Article 10**

1 This Agreement shall enter into force one month after the date on which two member States of the Council shall have become Parties to the Agreement in accordance with the provisions of Article 9.

2 As regards any member State who shall subsequently sign the Agreement without reservation in respect of ratification, acceptance or approval or who shall ratify, accept or approve it, the Agreement shall enter into force one month after the date of such signature or after the date of deposit of the instrument of ratification, acceptance or approval.

**Article 11**

1 After the entry into force of this Agreement the Committee of Ministers of the Council of Europe may invite any non-member State to accede thereto.
2 Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect one month after the date of its deposit.

Article 12

1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession specify the territory or territories to which this Agreement shall apply.

2 Any State may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Agreement to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. Any extension shall come into force within one month after receipt of the declaration.

3 Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect six months after the date of receipt by the Secretary General of the Council of Europe of the notification.

Article 13

1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it excludes wholly or partly the application of the provisions of Article 6, paragraph 1.b. No other reservation may be made to this Agreement.
2 Any Contracting Party may wholly or partly withdraw the reservation it has made by means of a declaration addressed to the Secretary General of the Council of Europe. The reservation shall cease to have effect as from the date of receipt of the declaration.

3 When a Contracting Party has made a reservation any other Party may apply the same reservation with respect to that Party.

Article 14

1 A Contracting Party which has more than one official language may for the purpose of applying Article 6, paragraph 1.a, by means of a declaration specify the language in which the application and documents attached thereto or a translation thereof shall be expressed to enable them to be transmitted to the specified parts of its territory.

2 The declaration provided for in the preceding paragraph shall be addressed to the Secretary General of the Council of Europe at the time of signature of the Agreement by the interested State or when depositing its instrument of ratification, acceptance, approval or accession. The declaration may be withdrawn or amended according to the same procedure.

Article 15

1 Any Contracting Party may, in so far as it is concerned, denounce this Agreement by means of a notification addressed to the Secretary General of the Council of Europe.

2 Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

Article 16
The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Agreement of:

a. any signature without reservation in respect of ratification, acceptance or approval;

b. any signature with reservation in respect of ratification, acceptance or approval;

c. the deposit of any instrument of ratification, acceptance, approval or accession;

d. any declaration made in pursuance of the provisions of Article 8;

e. any date of entry into force of this Agreement in accordance with Article 10;

f. any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 12;

g. any reservation made in pursuance of the provisions of paragraph 1 of Article 13;

h. the withdrawal of any reservation carried out in pursuance of the provisions of paragraph 2 of Article 13;

i. any declaration received in pursuance of the provisions of Article 14;

j. any notification received in pursuance of the provisions of Article 15 and the date on which denunciation takes effect.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Agreement.
Done at Strasbourg, this 27th day of January 1977, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.
Appendix E

Draft Law on Legal Aid for the Republic of Ukraine
LAW OF UKRAINE
“On Legal Aid”

Section 1. General Provisions

Article 1. Field of Application of the Law

Pursuant to the Constitution of Ukraine this Law shall determine the legal, financial and organizational foundations for securing of right to legal aid in Ukraine.

Article 2. Types of Legal Aid

Types of legal aid shall be as follows:

1. provision of consultations and explanations on legal matters;
2. provision of verbal and written inquiries with respect to the provisions of applicable laws of Ukraine;
3. preparation of applications, complaints and other documents of legal nature;
4. representation of interests with governmental authorities, local government authorities, and before any other persons;
5. representation of interests before courts, provision of legal defense of persons in the course of criminal proceedings;
6. legal education of population.

Article 3. State Policy in the Field of Provision of Legal Aid

1. State policy in the field of provision of legal aid shall be established by the Verkhovna Rada (Supreme Council) of Ukraine.
2. The Cabinet of Ministers of Ukraine shall ensure the implementation of the state policy in the field of provision of legal aid.
3. The Ministry of Justice of Ukraine shall be authorized to create and ensure functioning of a system for provision of legal aid and responsible for appropriate provision of guaranteed legal aid.
4. In pursuance of the above authorities charged to it, the Ministry of Justice shall:
   - approve quality standards of legal aid;
- summarize administrative data with respect to provision of legal aid by all subjects providing legal aid;
- ensure coordination of activities carried out by subjects providing guaranteed legal aid;
- approve typical forms of agreements on provision of guaranteed legal aid;
- establish the qualifying requirements on subjects providing guaranteed legal aid;
- be a chief administrator of cash funds of the Legal Aid Fund;
- ensure publication of annual reports on provision of guaranteed legal aid;
- perform other functions specified under this Law, other legislative acts of Ukraine.

**Article 4. Legal Aid Quality Standards**

1. Legal aid provided by all subjects providing legal aid shall comply with the state legal aid quality standards.

2. Legal aid quality standards require:
   - high level protection of citizens’ rights and freedoms;
   - appropriate level of representation of interests of legal entities, protection of their economic interests and reputations.

3. Legal aid quality standards shall be approved by the Ministry of Justice of Ukraine.

4. Monitoring of compliance with the legal aid quality standards shall be carried out by way of:
   - enacting of licensing of business activities related to provision of legal services;
   - conducting of qualifying certifications of law experts;
   - conducting polls with respect to the quality of obtained legal aid.

**Article 5. Subjects Providing Legal Aid**

1. Legal aid shall be provided by experts in the field of law and companies, institutions, organizations and associations established by them, for which provision of legal services is a basic activity:
   - barristers, assistant barristers, bar bureaus and associations;
   - individuals and legal entities being the subjects of business activities that have licenses to provide legal services;
   - notaries.
2. Legal aid may be also provided by public organizations (trade unions, consumers associations, and other public organizations), companies, institutions, establishments and organizations (audit companies, patent agents, institutions of higher education dealing with training of experts in the field of law etc.), for which provision of legal services is a basic activity.

3. While considering specific cases, governmental authorities and local government authorities must provide free of charge explanations on legal matters, verbal and written inquires with respect to the provisions of applicable laws of Ukraine.

4. Governmental authorities and local government authorities shall also provide other types of legal aid in accordance with the procedure and to the extent of their powers specified by laws of Ukraine.

5. Services of legal nature provided by any persons not specified under this article shall not be recognized as legal aid and regulations of this Law shall not be applied to those persons.

Section 2. Types and Procedure for Provision of Legal Aid

Article 6. Consultations and Explanations on Legal Matters

Consultations and explanations on legal matters is a type of legal aid aimed for provision, upon request of individuals and legal entities (hereinafter referred to as “applicants”), of information with respect to the procedure for application of legal regulations of Ukraine for the purpose of solution of specific issues raised by applicant, provision of advices with respect to exercising of rights and freedoms provided for by applicable laws in order to achieve the required results.

Article 7. Provision of Verbal and Written Inquiries with Respect to the Provisions of Applicable Laws of Ukraine

1. Provision of verbal and written inquiries with respect to the provisions of applicable laws of Ukraine is a type of legal aid intended for provision, in verbal or written form, of applicant with information related to the procedure of settlement of issues in accordance with applicable laws of Ukraine.

2. Written inquiry with respect to the provisions of laws shall be prepared on the letterhead of a subject providing legal aid along with the mandatory indication of the principal place of business (legal address for legal entities), telephone number of the subject providing legal aid, and signed by the person who issued the inquiry.

Article 8. Preparation of Applications, Complaints and other Documents of Legal Nature

Preparation of applications, complaints and other documents of legal nature is a type of legal aid intended for preparation of the mentioned documents following the requirements on the form and contents of respective documents established by applicable laws of Ukraine.

Article 9. Representation of Interests with Governmental Authorities, Local Government Authorities, and Before any other Persons

Representation of interests with governmental authorities, local government authorities, and before any other persons is a type of legal aid aimed for submission of and requesting documents, conducting consultations, participation in consideration of documents provided by
applicants for the purpose of representation and protection of their rights, freedoms and interests.

Article 10. Representation of Interests before Courts, Provision of Legal Defense of Persons in the Course of Criminal Proceedings

Representation of interests before courts, provision of legal defense of persons in the course of criminal proceedings is a type of legal aid intended for carrying out procedural activities with respect to protection of rights and interests of suspected, accused, defendant, convicted, acquitted persons, victims, civil claimants or civil defendants under any criminal cases, as well as those of any party under any civil, economic or administrative cases.

Article 11. Legal Education of Population

1. Legal education of population is a type of legal aid providing for implementation of a complex of measures of pedagogical, educational and informational nature aimed for creation of appropriate conditions for the formation of legal culture among population, citizens’ acquisition of the scope of legal knowledge and skills of their application necessary for exercising by citizens of their rights and freedoms, as well as fulfillment by citizens of the obligation charged to them.

2. Legal education of population shall be conducted in accordance with applicable laws of Ukraine.

Article 12. Procedure for Provision of Legal Aid

1. Legal aid shall be provided on contractual basis unless otherwise is provided for by applicable laws of Ukraine.

2. The types of legal aid specified under articles 6, 7 and 8 of this Law may be provided either in verbal or in written form upon personal request or request made by means of telephone communication or through the Internet.

3. Conditions of payment for legal aid provided upon request made by means of telephone communication or through the Internet shall be determined independently by the subject providing legal aid taking into account recommendations developed by the Ministry of justice of Ukraine.

4. Procedure for provision of legal aid under articles 9 and 10 of this Law shall be established by applicable laws of Ukraine.

5. Legal aid may be provided by subjects providing legal aid using subscriber service which provides for sale of a package of legal services including the agreed list of services, subject to the payment fixed by the subject providing such services.
Section 3. Legal Aid Quality Standards

Article 13. Licensing of Business Activities Related to Provision of Legal Services

1. Licensing of business activities related to provision of legal services shall be carried out by the Ministry of Justice of Ukraine in accordance with the procedure established by laws.

2. The Ministry of Justice of Ukraine jointly with a specially authorized body for licensing matters shall approve licensing conditions for conducting business activities related to provision of legal services and a procedure for monitoring of the compliance with those conditions.

Article 14. Conducting of Qualifying Certifications of Law Experts

1. The Ministry of Justice of Ukraine shall ensure quality monitoring of legal services provision by individual experts by way of conducting qualifying certifications of such experts.

2. Procedure for conducting qualifying certifications of law experts, procedure for admittance to carry out certain activities, qualification requirements on experts in the field of law, shall be established by the Cabinet of ministers of Ukraine.

3. Qualifying certifications of law experts shall be conducted by qualification commissions organized by the Ministry of Justice of Ukraine and its territorial authorities. Regulation on qualification commissions shall be approved by the Ministry of Justice of Ukraine.

Article 15. Conducting Polls with Respect to the Quality of Obtained Legal Aid

1. The Ministry of Justice of Ukraine may organize, initiate or place orders for conducting polls among citizens and their associations, companies, institutions, organizations, experts in the field of law in order to ascertain state of the market of legal services, adequacy of the number of subjects providing legal services and quality level of legal services provided by them.

2. Results of such polling may be used by the Ministry of Justice of Ukraine for the purpose of adjusting the schedule of inspection of activities carried out by subjects providing legal services, issuance of proposals with respect to the establishment or modification of qualification requirements on law expert, as well as other measures connected with exercising of powers in the field of legal aid provision.

Section 4. Guaranteed Legal Aid

Article 16. Concept of Guaranteed Legal Aid and Persons Entitled to Such Legal Aid

1. Guaranteed legal aid means provision by the organizations and persons set forth under this Law, of legal aid to insolvent individuals, either in full or partially at the expense of the state budget in cases provided for by law.

2. Guaranteed legal aid may be obtained by the following individuals:
1) persons granted with state social benefits pursuant to the Law of Ukraine “On State Social Assistance to Low-Income Families”;
2) victims of natural disasters, ecological disasters, accidents etc.;
3) persons which are not attributed to the low-income category, but may not use their assets to pay for legal aid;
4) other individuals pursuant to Ukrainian laws and applicable international agreements entered into by Ukraine which obligation is approved by the consent of the Verkhovna Rada.

Right to guaranteed legal aid in the course of civil and administrative cases shall be granted to persons incapable to pay for such aid because of their low-income status, but the case they are involved in, requires engagement of law expert through its complexity.

**Article 17. Expenses Connected with Guaranteed Legal Aid**

1. Expenses connected with provision of guaranteed legal aid shall be reimbursed by the state either in full or partially.

2. Full or partial reimbursement of the cost of legal aid provided to persons specified under Article 16, clause 2, sub-clause 1 of this Law shall be subject to determination on pro rata basis as a percentage ratio and shall depend on the cost of a certain service and income of the individual who applied for such legal aid.

3. When settling the issue of full or partial reimbursement of the cost of legal aid provided to persons specified under Article 16, clause 2, sub-clause 1 of this Law, it shall necessary to take into account the following:

   - income of the person who applied for legal aid including proceeds from property and any other proceeds subject to including in the amount of total taxable income;
   - number and nature of members of the family and income of each member of the family residing together with person who applied for legal aid, availability of infants, orphan children and children devoid of parental custody being in the trusteeship of and supported by the said person.

4. Procedure for reimbursement of expenses connected with provision of legal aid shall be established by the Cabinet of Ministers of Ukraine.

**Article 18. Authorities Settling the Issue of Provision of Guaranteed Legal Aid**

1. Issues of provision of guaranteed legal aid shall be settled by councils for provision of guaranteed legal aid to be created at the Ministry of Justice of Ukraine and its territorial bodies (hereinafter referred to as “councils”).

2. The councils shall be composed of subjects providing guaranteed legal aid or their representatives: managers of bar associations and other legal entities possessing a license to provide legal services, individual barristers, lawyers, representatives of public organizations. The Council for providing guaranteed legal aid at the Ministry of Justice of
Ukraine shall be headed by the Minister of Justice of Ukraine. Councils for providing guaranteed legal aid created by territorial bodies of justice shall be headed by managers of the territorial bodies of justice.

3. The Council for providing guaranteed legal aid at the Ministry of Justice of Ukraine shall agree all statutory and legal acts related to provision of guaranteed legal aid.

4. Procedure for organization of the councils shall be established by the Cabinet of Ministers of Ukraine.

5. Regulation on the councils shall be approved by the Ministry of Justice of Ukraine.

Article 19. Procedure for Obtaining Guaranteed Legal Aid

1. In order to obtain guaranteed legal aid, a person shall submit an application to the council of the respective territorial body of justice. Typical form of application for obtaining guaranteed legal aid shall be approved by the Ministry of Justice of Ukraine.

2. Application shall be considered by the council within three days.

3. Decision of the council as to the compliance with the application for obtaining guaranteed legal aid shall be delivered to the person applied for such legal aid, either personally or send by post within twenty four hours after the day on which such decision was passed.

4. Decision of the council as to the refusal of provision of guaranteed legal aid may be appealed to the Council at the Ministry of Justice of Ukraine or court, and decision of the Council at the Ministry of Justice of Ukraine may be appealed to court.

5. Procedure for consideration of applications for obtaining guaranteed legal aid shall be established by the Ministry of Justice of Ukraine.

Article 20. Documents Confirming the Right to Obtaining Guaranteed Legal Aid

1. Documents confirming the right to obtaining guaranteed legal aid for persons specified under Article 16, clause 2, sub-clause 1 of this Law, shall include:

   - customs declarations for property and income. In case that guaranteed legal aid is provided for a period of more than one year, declarations for property and income shall be submitted annually;

   - certificates confirming the obtaining by a person of social payments and benefits.

2. A body passing decisions as to provision of guaranteed legal aid shall have a right to demand, upon the consent of an individual, submission of other documents containing information on the property status of the individual. In the event that such consent to demanding by the body of the aforesaid documents is missing, the council shall have a right to refuse provision of guaranteed legal aid.

3. In order to confirm their right to obtaining guaranteed legal aid, persons specified under Article 16, clause 2, sub-clause 2 of this Law shall submit certificates issued by authorities
for emergency situations to confirm the persons’ statuses of victims of natural disasters, ecological disasters, or accidents.

**Article 21. Organization of Provision of Guaranteed Legal Aid**

1. In order to organize provision of guaranteed legal aid, the Ministry of Justice of Ukraine shall establish a register of subjects providing legal aid (hereinafter referred to as the “register”).

2. The register shall include subjects providing legal aid specified under Article 5, clauses 1 and 2 of this Law that submitted applications with respect to their intent to provide guaranteed legal aid and comply with the legal aid quality standards.

3. Guaranteed legal aid shall be provided on the basis of the agreement entered into by the Ministry of Justice of Ukraine and a subject providing legal aid. The agreement shall necessarily specify conditions determining the quality of guaranteed legal aid provided and tools of monitoring of guaranteed legal aid provision by the Ministry of Justice of Ukraine. Typical form of agreement for provision of guaranteed legal aid shall be approved by the Ministry of Justice of Ukraine.

4. Minimum rates of payment for legal aid provided under agreements shall be established by the Cabinet of Ministers of Ukraine. The minimum rates may not be less than seventy per cent of actual expenses related to provision of legal aid.

5. For the purpose of provision of guaranteed legal aid, the Ministry of Justice of Ukraine may establish organizations of public defenders which operation shall be paid completely at the expense of the Legal Aid Fund.

6. In order to provide guaranteed legal aid, institutions of higher education engaged in training of law experts in Jurisprudence may organize “legal clinics”, i.e. consulting stations where the types of legal aid specified in the second, third and forth paragraph of Article 2 of this Law shall be provided by students under the guidance of teachers and managers of the respective institution. Regulation on “legal clinics” and the procedure for provision by them of free legal aid shall be approved by the Cabinet of Ministers of Ukraine.

**Article 22. Termination of Provision of Guaranteed Legal Aid**

1. Provision of guaranteed legal aid may be terminated in the following cases:
   
   1) discovery of any circumstances evidencing the fact that individual obtaining guaranteed legal aid is not entitled to such aid;

   2) individual’s failure to pay to the state budget the appropriate share of the cost of legal aid provided to this individual;

   3) deliberate submission by individual of unauthentic information with respect to the substance of the dispute, case, its property or income;

   4) change of the income level of individual obtaining guaranteed legal aid and the individual’s having no right to partial payment of expenses connected
with provision of legal aid guaranteed by state; cease of circumstances that entitled individual to obtaining free legal aid;

5) decision passed by appropriate body with respect to the inexpediency of provision of free legal aid to individual, or with respect to the fact that any rights and interests of the individual protected by law have not been violated and its defense or representation of the interests in the course of specific case proceeding is inexpedient.

2. In the event of termination of provision of guaranteed legal aid under the circumstances specified in clause 1, sub-clause 3 of this article, the person shall reimburse the cost of actually obtained legal aid.

Article 23. Financing of Guaranteed Legal Aid

1. In order to provide government financing of guaranteed legal aid, a Legal Aid Fund shall be established under the State Budget of Ukraine. The Legal Aid Fund shall be a special budgetary fund.

2. The Legal Aid Fund shall be sourced from:
   1) ten per cent of the state duty paid for filing claim to court;
   2) fifty per cent of the amount paid for issuance of license to carry out business activities related to provision of legal services;
   3) fifty per cent of the amount of the charge for registration of bar associations;
   4) ten per cent of the price of claim in the event of upholding of the claim of individual to whom legal aid has been provided pursuant to Article 16, clause 3 of this Law;
   5) grants or presents (in value terms) received by the Ministry of Justice of Ukraine for the purpose of provision of guaranteed legal aid;
   6) difference between incomes and losses of the special budgetary fund.

Section 5. Responsibility for Breach of the Law on Legal Aid

Article 24. Responsibility of Subjects Providing Legal Aid

Subjects providing legal aid shall be responsible under the law for the following:

- carrying out business activities connected with provision of legal services without license;
- carrying out any types of business activities connected with provision of legal services not specified under the license;
- carrying out business activities connected with provision of legal services which constitutes violation of license conditions;
- provision of professional legal aid by persons that have not passed qualifying certification;

- provision of legal aid which constitutes violation of the legal aid quality standards.

Subjects providing legal aid shall be responsible for breach of contractual obligations in accordance with the procedure established by the Civil Code of Ukraine.

**Article 25. Responsibility of Individuals Applying for Guaranteed Legal Aid**

Individuals who applied for guaranteed legal aid shall be responsible under the law for any deliberate provision of unauthentic information with respect to the substance of the dispute or case, their property or income, non-disclosure of any information or documents that has resulted in expenditure of the assets of the Legal Aid Fund (State Budget).

**Section 6. Final Provisions**

1. This Law shall take effect in three months after date of its publication.

2. As long as legislation is brought in correspondence with the Law of Ukraine “On Legal Aid”, laws and other statutory and legal acts shall be applied to the extent that does not conflict with this Law.

3. The Cabinet of Ministers of Ukraine shall be charged to deal with the following:

   - in the course of preparation of drafts of the State Budget for 2005 and next years, to provide for the establishment of a Legal Aid Fund;

   - within a month’s period after coming of this Law into effect:

     - to submit for the consideration of the Verkhovna Rada of Ukraine a proposal with respect to the bringing legislative acts of Ukraine in correspondence with this Law;

     - to bring its decisions in correspondence with this Law;

     - to ensure that ministers and other central executive authorities bring their statutory and legal acts in correspondence with this Law;

     - to develop statutory and legal acts specified under this Law.


   “67) provision of legal services”.